



IOWA ADMINISTRATIVE BULLETIN

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July 7, 2004

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2004

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04
Jan. 16	Feb. 4	Feb. 24	Mar. 10	Mar. 12	Mar. 31	May 5	Aug. 2
Jan. 30	Feb. 18	Mar. 9	Mar. 24	Mar. 26	Apr. 14	May 19	Aug. 16
Feb. 13	Mar. 3	Mar. 23	Apr. 7	Apr. 9	Apr. 28	June 2	Aug. 30
Feb. 27	Mar. 17	Apr. 6	Apr. 21	Apr. 23	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 7	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	May 21	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 4	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	June 18	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 2	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	July 16	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	July 30	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
July 2	July 21	Aug. 10	Aug. 25	Aug. 27	Sept. 15	Oct. 20	Jan. 17 '05
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 10	Sept. 29	Nov. 3	Jan. 31 '05
July 30	Aug. 18	Sept. 7	Sept. 22	Sept. 24	Oct. 13	Nov. 17	Feb. 14 '05
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 8	Oct. 27	Dec. 1	Feb. 28 '05
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Oct. 22	Nov. 10	Dec. 15	Mar. 14 '05
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 5	Nov. 24	Dec. 29	Mar. 28 '05
Sept. 24	Oct. 13	Nov. 2	Nov. 17	***Nov. 17***	Dec. 8	Jan. 12 '05	Apr. 11 '05
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 3	Dec. 22	Jan. 26 '05	Apr. 25 '05
Oct. 22	Nov. 10	Nov. 30	Dec. 15	***Dec. 15***	Jan. 5 '05	Feb. 9 '05	May 9 '05
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Dec. 31	Jan. 19 '05	Feb. 23 '05	May 23 '05
Nov. 17	Dec. 8	Dec. 28	Jan. 12 '05	Jan. 14 '05	Feb. 2 '05	Mar. 9 '05	June 6 '05
Dec. 3	Dec. 22	Jan. 11 '05	Jan. 26 '05	Jan. 28 '05	Feb. 16 '05	Mar. 23 '05	June 20 '05
Dec. 15	Jan. 5 '05	Jan. 25 '05	Feb. 9 '05	Feb. 11 '05	Mar. 2 '05	Apr. 6 '05	July 4 '05
Dec. 31	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05

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SUBMISSION DEADLINE

Friday, July 16, 2004

Friday, July 30, 2004

Friday, August 13, 2004

ISSUE DATE

August 4, 2004

August 18, 2004

September 1, 2004

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

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To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Organic materials composting facilities, 105.5(1), 105.8(2), 105.10, 105.15 IAB 6/9/04 ARC 3408B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 14, 2004 10:30 a.m.
Landfarming of petroleum contaminated soil; land application of wastes, rescind and adopt new ch 120; 121.1 to 121.7 IAB 6/9/04 ARC 3397B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 21, 2004 10 a.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Contribution rates for sheriffs and deputy sheriffs; airport firefighters moved to protection occupation class, 495—4.6; 581—21.8, 21.13(10) IAB 6/23/04 ARC 3445B (See also ARC 3446B)	7401 Register Dr. Des Moines, Iowa	July 13, 2004 9 a.m.
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NATURAL RESOURCE COMMISSION[571]

Boating restrictions at Green Island and Odessa state wildlife areas, 40.9(2), 40.49, 40.50 IAB 7/7/04 ARC 3488B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 27, 2004 2 p.m.
Trespassing on Middle River Wildlife Area, 52.1(2) IAB 7/7/04 ARC 3487B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 27, 2004 10 a.m.
Licensing requirements for adults who accompany youth on special youth hunts, 105.4(1) IAB 7/7/04 ARC 3489B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 27, 2004 10 a.m.

NURSING BOARD[655]

Licensure, 3.1, 3.7, 3.8, 4.7, 5.2 IAB 7/7/04 ARC 3470B	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	September 8, 2004 6:30 p.m.
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Mortuary science examiners, 99.4, 99.6, 101.10 to 101.17, 104.1 IAB 7/7/04 ARC 3476B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 28, 2004 9 to 10 a.m.
Respiratory care examiners, 261.9, 261.10, 262.2, 262.6, 262.10 IAB 7/7/04 ARC 3475B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 28, 2004 10 to 11 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Minimum training standards for fire fighters, 54.100 to 54.104 IAB 7/7/04 ARC 3482B	Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	August 5, 2004 10 a.m.
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(ICN Network)

Room 8, Bldg. 6, Ankeny Campus Des Moines Area Community College 2006 S. Ankeny Blvd. Ankeny, Iowa	August 9, 2004 6 to 8 p.m.
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Room 210 Scott Community College 500 Belmont Rd. Bettendorf, Iowa	August 9, 2004 6 to 8 p.m.
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Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. Cedar Rapids, Iowa	August 9, 2004 6 to 8 p.m.
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Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	August 9, 2004 6 to 8 p.m.
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Room 211, Instructional Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	August 9, 2004 6 to 8 p.m.
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Room 818, Smith Wellness Center Iowa Lakes Community College 3200 College Dr. Emmetsburg, Iowa	August 9, 2004 6 to 8 p.m.
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Room 206, Library Iowa Central Community College 330 Avenue M Fort Dodge, Iowa	August 9, 2004 6 to 8 p.m.
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Room 806, Continuing Education Ctr. Iowa Valley Community College 3702 South Center St. Marshalltown, Iowa	August 9, 2004 6 to 8 p.m.
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Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	August 9, 2004 6 to 8 p.m.
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ICN Room 8, Video Conference Center Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	August 9, 2004 6 to 8 p.m.
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Room 139 Northeast Iowa Community College 10250 Sundown Rd. Peosta, Iowa	August 9, 2004 6 to 8 p.m.
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PUBLIC SAFETY DEPARTMENT[661] (Cont'd)
(ICN Network)

	Room 402, Bldg. D Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	August 9, 2004 6 to 8 p.m.
	Room 925, Bldg. A Western Iowa Tech. Community College 4647 Stone Ave. Sioux City, Iowa	August 9, 2004 6 to 8 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	August 9, 2004 6 to 8 p.m.
	Room 503, North Campus, Trustee Hall Southeastern Community College 1500 W. Agency West Burlington, Iowa	August 9, 2004 6 to 8 p.m.
Fire fighter training and equipment funds; training facility funds, 55.104, 55.105, 55.301 IAB 7/7/04 ARC 3481B	Conference Room Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	August 5, 2004 9:30 a.m.
Volunteer emergency services provider death benefits—line-of-duty death, 59.1, 59.2 IAB 7/7/04 ARC 3480B (See also ARC 3479B herein)	Conference Room Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	August 5, 2004 9:45 a.m.

RACING AND GAMING COMMISSION[491]

General, amendments to chs 1, 3 to 7, 9 to 11 IAB 7/7/04 ARC 3449B	Suite B 717 E. Court Des Moines, Iowa	July 27, 2004 9 a.m.
Limitation on location and number of racetracks and excursion gambling boats, rescind 1.6 IAB 7/7/04 ARC 3448B	Suite B 717 E. Court Des Moines, Iowa	July 27, 2004 9 a.m.

STATE PUBLIC DEFENDER[493]

Claims, amend 7.1, 11.5, 11.7, 12.1 to 12.10; adopt ch 13 IAB 6/23/04 ARC 3442B (See also ARC 3443B)	Conference Room 424 Lucas State Office Bldg. Des Moines, Iowa	July 13, 2004 9 a.m.
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UTILITIES DIVISION[199]

Revisions to customer service rules, 19.4, 20.4 IAB 6/9/04 ARC 3411B	Hearing Room 350 Maple St. Des Moines, Iowa	July 16, 2004 9 a.m.
Revisions to level payment plan rules, 19.4(11), 20.4(12) IAB 7/7/04 ARC 3493B	Hearing Room 350 Maple St. Des Moines, Iowa	September 1, 2004 9 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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ARC 3469B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3, 192.102, and 194.2, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 68, “Dairy,” Iowa Administrative Code.

These proposed amendments are intended to update the rules governing the operation and inspection of dairy farms, dairy plants, and milk haulers and graders. The proposed amendments adopt updated versions of the federal Pasteurized Milk Ordinance used for the interstate shipment of milk and milk products. The amendments also change the definition of “habitual violator” and update the rules to reflect current industry practices.

Any interested person may make written suggestions or comments on the proposed amendments prior to 4:30 p.m. on July 27, 2004. Such written material should be directed to Jake Wakefield, Bureau Chief, Dairy Products Control Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-8888 or by E-mail to Jake.Wakefield@idals.state.ia.us.

No waiver provision is included in these proposed amendments because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to these amendments.

These amendments are intended to implement Iowa Code chapters 159, 192, and 194.

The following amendments are proposed.

ITEM 1. Amend rule **21—68.1(192,194)** by amending the following definitions:

“Habitual violator” is a producer or other dairy industry business entity that is regulated by the department, for whom the monthly official records for somatic cell counts, bacteria, cooling or added water show that the violation has occurred eight times in a 12-month period, including the accelerated testing counts; or *that* has received three, two-of-four warning letters in a 12-month period; or *that* has received a second three-of-five, off-the-market letter in a 12-month period; or *that has been cited for unsanitary conditions three times in a 12-month period*; or *that* has been found with a fourth positive antibiotic in a 12-month period.

“P.M.O.” means the Grade A Pasteurized Milk Ordinance, 1999 2003 Recommendations of the United States Public Health Service/Food and Drug Administration, a copy of which is on file with the department and is incorporated into this chapter by reference and made a part of this chapter.

ITEM 2. Amend subrule 68.2(4) as follows:

68.2(4) Hauler/grader license. A person engaged in the transporting, transferring, sampling, weighing or measuring of milk *or a person engaged as a sample courier* shall possess a “hauler/grader” license.

ITEM 3. Amend rule 21—68.2(192,194) by adding the following **new** subrule:

68.2(7) Dairy distributor’s permit. A person primarily in the business of distributing dairy products shall possess a “dairy distributor” permit.

ITEM 4. Amend subrule 68.4(2) as follows:

68.4(2) ~~Fieldman~~ *Field representative*. The department shall provide a certification program for individuals who work as “quality control” officers in the dairy industry but are not employees of the department. An individual certified as a “~~fieldman~~ *field representative*” may perform certain tasks for the department when authorized to do so by the department.

ITEM 5. Amend rule **21—68.5(190,192,194)**, numbered paragraph “**10**,” as follows:

10. If the milk in a farm bulk milk tank cannot be properly agitated by the bulk tank agitator *at the time of pickup by the milk hauler*, the milk shall not be sold for human consumption.

ITEM 6. Amend subrule 68.11(1) as follows:

68.11(1) Grade A and Grade B farm permit suspension and revocation. The department may temporarily suspend a Grade A or Grade B farm permit if the dairy farm fails to meet all the requirements as set forth in the P.M.O. or the Grade B United States Department of Agriculture document titled, “Milk for Manufacturing *Purposes* and Its Production and Processing, Recommended Requirements,” 1996 ~~Revision~~ *effective June 17, 2002*. A Grade A farm under temporary suspension of the Grade A permit may sell the milk as “milk for manufacturing purposes” until reinstated as a Grade A farm if the former Grade A farm meets the requirements necessary to sell Grade B milk. A Grade B farm under temporary suspension of the Grade B permit may sell milk as “Undergrade Class 3” until reinstated as a Grade B farm if the former Grade B farm meets the requirements of Undergrade Class 3. If an inspection reveals a violation which, in the opinion of the inspector, is an imminent hazard to the public health, the inspector shall take immediate action to prevent any milk believed to have been exposed to the hazard from entering commerce. In addition, the inspector shall immediately notify the department that such action has been taken. In other cases, if there is a repeat violation of a dairy standard as determined by two consecutive routine inspections of a dairy farm, the inspector shall immediately refer the violation to the department for action. The department may revoke the dairy permit of a person that the department determines is a habitual violator as defined in rule 21—68.1(192,194).

ITEM 7. Amend rule 21—68.11(192,194) by adding the following **new** subrule:

68.11(3) A Grade A dairy producer whose permit has been suspended for a period of 12 consecutive months shall be downgraded to the Grade B market and be issued a Grade B permit.

ITEM 8. Amend rule 21—68.13(192,194) as follows:

21—68.13(192,194) Public health service requirements.

68.13(1) Certification. A rating of 90 percent or more calculated according to the rating system as contained in Public Health Service “Methods of Making Sanitation Ratings of Milk ~~Suppliers~~ *Shippers*,” 1997 2003 Revision, shall be necessary to receive or retain a Grade A certification under Iowa Code chapter 192. That publication is hereby incorporated into this rule by this reference and made a part thereof insofar as applicable, a copy of which is on file with the department.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

68.13(2) Documents. The following publications of the Public Health Service of the Food and Drug Administration are hereby adopted. A copy of each is on file with the department:

1. "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments," 1999 2003 Revision.
2. "Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products," 1993 Revision as incorporated in the P.M.O., Appendix J.
3. "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey," Supplement I to P.M.O. the Grade A Pasteurized Milk Ordinance, 1995 Recommendations.
4. "Evaluation of Milk Laboratories," 1995 Revision.

ITEM 9. Amend rule 21—68.15(192,194) as follows:

21—68.15(192,194) Milk standards. Standards for the production and processing of milk for manufacturing purposes shall conform to standards contained in the USDA document entitled "Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements," Volume 37, Number 68, Part II, dated November 12, 1996 dated June 17, 2002, which is hereby incorporated into this rule by reference and made a part thereof insofar as applicable, a copy of which is on file with the department.

ITEM 10. Amend subrule 68.22(3) as follows:

68.22(3) Utensils and equipment. Utensils, milk cans, milking machines (including pipeline systems), and other equipment used in the handling of milk shall be maintained in good condition, shall be free from rust, open seams, milkstone, or any unsanitary condition, and shall be washed, rinsed, and drained after each milking, stored in suitable facilities, and sanitized immediately before use with at least 50 200 ppm. chlorine solution or its equivalent.

ITEM 11. Amend subrule 68.26(1) as follows:

68.26(1) At least once every 30 days calendar month, all creameries, cheese factories, or milk processing plants, hereafter referred to as purchasers, shall test a herd milk sample from every producer in a certified or officially designated laboratory to determine the existence of abnormal milk.

ITEM 12. Amend rule 21—68.27(192,194) as follows:

21—68.27(192,194) Standards for performing farm inspections. The August 1, 1976, manual prepared by USDA/AMS, Dairy Division, titled "General Instructions for Performing Farm Inspections According to USDA Recommended Requirements for Manufacturing Purposes and Its Production and Processing for Adoption by State Regulatory Agencies," is adopted in its entirety, and shall constitute the official standards for farm farms producing milk for manufacturing, with the following exception:

Strike from Rule 1c, Brucellosis Test, the words "Uniform Methods and Rules" for establishing and maintaining Certified Brucellosis Free Herds of Cattle, Modified Certified Brucellosis Area and Certified Brucellosis Free Areas which are approved by Animal Disease Eradication Division, Agricultural Research Service. . . , and insert in lieu thereof, "Brucellosis Eradication, Uniform Methods and Rules, effective April 1, 1984 February 1, 1998". The bacteriological standards for private water supplies used by dairy farms consist of an MPN (Most Probable Number of Coliform Organisms) of less than 2.2/100 ml by the multiple tube fer-

mentation technique, or less than 1/100 ml by the membrane filter technique, or the results of any water test approved by the United States Food and Drug Administration or Environmental Protection Agency of less than 1/100 ml.

ITEM 13. Amend rule 21—68.50(192), numbered paragraph "4," as follows:

4. A sanitizing solution in the sample dipper storage container of 100 200 ppm of chlorine or equivalent.

ITEM 14. Amend subrule 68.54(5) as follows:

68.54(5) Before a milk hauler uses the milk hauler's thermometer to take the temperature of the milk in a bulk tank, the hauler shall sanitize the stem of the thermometer in 100 200 ppm chlorine or its equivalent for a minimum of 30 60 seconds.

ITEM 15. Amend subrule 68.58(4) by adding the following new numbered paragraph "6":

6. The time of pickup, including whether A.M. or P.M. or military time.

ITEM 16. Amend subrule 68.59(6) as follows:

68.59(6) After the milk hauler has disconnected the milk hose and inspected the empty farm bulk tank for abnormal sediments, the milk hauler shall rinse the bulk tank with cold or lukewarm water unless the bulk tank is self-cleaning and includes a pre-rinse cycle as part of the self-cleaning process.

ITEM 17. Amend subrule 68.66(2) as follows:

68.66(2) Air entering a bulk milk tanker when the tanker is unloading shall be filtered to prevent contamination of the milk when the door to the receiving area is open.

ITEM 18. Amend rule 21—68.68(192) as follows:

21—68.68(192) Violations prompting immediate suspension. A person violating any of the following shall have the person's milk hauler license suspended for the first full five weekdays following the violation. Administering the violation in this manner will allow a licensed field representative or a person employed by the plant with a milk hauler's license to ride with a suspended milk hauler and to perform all of the bulk milk pickup procedures which the suspended milk hauler shall not perform while the license is suspended. This rule will also allow a dairy co-op or a proprietary establishment the ability to recover the cost of the field person employed by employee of the business establishment while the employee is working with the suspended milk hauler.

1. 68.43(1) and 68.43(2). Cleaned bulk milk tanker and accessories.
2. 68.44(192). Sanitized bulk milk tanker and accessories.
3. 68.50(192). Bulk milk hauling supplies.
4. 68.56(1) and 68.56(4) to 68.56(7). Measuring the milk in the bulk tank.
5. 68.57(1). Collecting a milk sample from a bulk tank.
6. 68.58(1) to 68.58(4). Milk collection record.
7. 68.59(2) and 68.59(3). Loading bulk tank milk.
8. 68.60(1) and 68.60(2). Milk samples required for testing.
9. 68.61"1" to "9." Bulk milk sampling procedures.
10. 68.63"1" to "3." Producer sample identification.
11. 68.64(1) and 68.64(2). Care of samples.
12. 68.67"1" to "5." False samples or records.
1. Not measuring the milk before pumping.
2. Not collecting a sample from the farm bulk tank.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

3. *Collecting milk from a container other than the farm bulk tank or an approved milk can.*
4. *Not collecting a milk sample before pumping or opening the valve to the milk tanker.*
5. *Mixing the contents of milk samples with other milk samples.*
6. *Collecting a sample before proper agitation.*
7. *Not using proper sample collection equipment.*
8. *Falsely identifying a milk sample.*
9. *Submitting a false or manipulated milk sample or a false sample collection record.*

ARC 3471B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 7, “Professional Development,” Iowa Administrative Code.

This amendment is intended to clarify the Board’s rule regarding criteria for reduction of the continuing education requirement for renewal of licensure and to make the rule more consistent with Iowa Code chapter 272C.

Waiver of this rule may be sought pursuant to 193—Chapter 5, “Waivers and Variances from Rules.”

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before July 27, 2004. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, telephone (515)281-7360.

This amendment is intended to implement Iowa Code sections 272C.2, 272C.3, 542B.6 and 542B.18.

The following amendment is proposed.

Amend rule 193C—7.6(542B,272C) as follows:

193C—7.6(542B,272C) Exemptions. The continuing education requirements may be reduced in proportion to the following:

1. ~~Periods of time exceeding 120 consecutive days that the licensee serves honorably on active duty in the military services;~~
2. ~~Periods of time that the licensee is licensed in and a resident of another state or district having continuing education requirements for professional engineering or land surveying equal to or more stringent than the requirements of these rules and meets all requirements of that state or district for practice therein;~~
3. ~~Periods of time exceeding 120 consecutive days that the licensee is an employee working as a professional engineer or land surveyor and assigned to duty outside the United States of America a government employee working as a pro-~~

~~fessional engineer or land surveyor and assigned to duty outside the United States; or~~

4. ~~Documented periods of the licensee’s active practice and absence from the United States that are approved by the board.~~

~~No exemption will be granted without a written request from the licensee with documentation of the period of absence.~~

ARC 3456B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 234.6(7) and 239B.4(4) and 2004 Iowa Acts, House File 2350, section 12, the Department of Human Services proposes to amend Chapter 9, “Public Records and Fair Information Practices,” Chapter 40, “Application for Aid,” Chapter 41, “Granting Assistance,” and Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

These amendments implement provisions of 2004 Iowa Acts, House File 2350, which was signed by the Governor on April 7, 2004, by:

- Rescinding truancy requirements in the Family Investment Program. These requirements, providing that parents had to sign a release for school attendance information as a condition of eligibility and reducing the cash grant by 25 percent if truancy was not resolved after a meeting coordinated by the Department, have been suspended since July 2002. These requirements have proved to be administratively burdensome and of limited effectiveness. The statutory basis for these requirements has been rescinded effective July 1, 2004, by 2004 Iowa Acts, House File 2350, sections 5 through 11. Family Investment Program recipients continue to be subject to the same school attendance requirements and penalties for truancy as all other Iowa families.

- Allowing the disregard of one motor vehicle in the determination of Family Investment Program eligibility, as specified by Iowa Code section 239B.7, subsection 8, as amended by 2004 Iowa Acts, House File 2350, section 1, without regard to the vehicle’s value. Possession of reliable transportation is a significant factor in a family’s ability to be self-sufficient. Iowa has historically had one of the lowest motor vehicle disregards in the country. (This amendment also states the current value of the partial disregard used if an adult or working teenager in the household has another vehicle. This value increases annually based on the consumer price index for used vehicles.)

- Changing Food Assistance resource policy to match the Family Investment Program policy of disregarding the value of one motor vehicle per household, as allowed by Public Law 106-387, Section 847. Currently, vehicles can be excluded for reasons such as use to produce income or to transport a physically disabled person, or if sale of the vehicle would produce \$1500 or less. If the vehicle cannot be excluded by these tests, the Department must ascertain the val-

HUMAN SERVICES DEPARTMENT[441](cont'd)

ue of the vehicle through industry publications or appraisal and apply a disregard. These methods will continue to be used on other vehicles the household owns, but most Food Assistance households have only one vehicle.

These amendments do not provide for waivers in specified situations because they increase benefits for or remove restrictions on affected households.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3466B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code sections 239B.7 and 239B.2A as amended by 2004 Iowa Acts, House File 2350, sections 1 and 11, respectively.

ARC 3486B

HUMAN SERVICES DEPARTMENT[441]

Notice of Termination

Pursuant to the authority of Iowa Code section 249A.4 and 2003 Iowa Acts, chapter 112, section 4, the Department of Human Services terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 10, 2003, as **ARC 3022B**, amending Chapter 36, "Facility Assessments," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

The Notice was published to allow for public review and comment on amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on the same date as **ARC 3021B**. The amendments created a new division in Chapter 36 to implement 2003 Iowa Acts, chapter 112, section 4, and 2003 Iowa Acts, chapter 179, section 162, which authorized the Department to collect a quality assurance assessment for nursing facilities. Under the amendments, the state would receive approximately \$26.6 million in assessment revenue and pay approximately \$16.4 million in Medicaid reimbursement. The remaining \$10.2 million would be credited to the Senior Living Trust Fund.

Implementation of these amendments requires approval of the federal Centers for Medicare and Medicaid Services, and the Department has not yet received this approval. Therefore, the Department is terminating the rule making commenced in **ARC 3022B** and will renote proposed rules to reflect terms of the federal approval when it is received. The Adopted and Filed Emergency amendments took effect on December 1, 2003, and remain in effect.

ARC 3468B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments make technical changes to benefit recipients of Medicaid coverage for employed persons with disabilities by:

- Changing the order in which premium payments are applied. Under the current rules, payments sent in with the intent to establish a credit to pay for the following month are first applied to past months that remain unpaid, with the result that the recipient does not get the medical card at the first of the month. A recipient who did not have medical expenses in a previous month may prefer not to pay the premium for that month. This amendment will give recipients more control over when payment for previous months will occur.

- Allowing refund of an excess of funds in the recipient's account if the premium amount owed is zero for two consecutive months. Some recipients whose premium is changed to zero due to changes in income continue to submit payments. Current rules do not allow refund of this money until the account is inactive or the recipient requests the refund.

These amendments do not provide for waivers in specified situations because the changes benefit the recipients affected.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3, subsection 2(a).

The following amendments are proposed.

Amend subparagraph **75.1(39)"b"(4)** as follows:

(4) Payments received shall be applied in the following order:

1. To the ~~current calendar~~ month in which the payment is received if the premium for the current calendar month is unpaid.

2. To the following month ~~if payment is when the payment is received in the last five working days of the month and the premium after a billing statement has been issued for the following month is unpaid.~~

3. To prior months when a full payment has not been received. Payments shall be applied beginning with the most recent unpaid month before the current calendar month, then the oldest unpaid prior month and forward until all prior months have been paid.

4. When premiums for all months above have been paid, any excess shall be held and applied to any months for which eligibility is subsequently established, as specified in num-

HUMAN SERVICES DEPARTMENT[441](cont'd)

bered paragraphs "1," "2," and "3" above, and then to future months when a premium becomes due.

5. Any excess on an inactive account shall be refunded to the client after two calendar months of inactivity *or of a zero premium* or upon request from the client.

ARC 3455B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments publish the Department's annual updates of:

- The statewide average cost of nursing facility services to a private-pay resident. This figure is determined by a survey of facilities and is used to determine the period of ineligibility when a person transfers assets for less than market value. The monthly average cost has increased from \$3,575.34 to \$3,597.84. Since the amount transferred is divided by this cost to determine the number of months of ineligibility for nursing facility care and other long-term care services, the resulting periods of ineligibility will be slightly shorter.

- The statewide average charges or maximum Medicaid rate for various levels of institutional care. Iowa Code section 633.707 requires the Department to calculate and publish these figures, which are used to determine the disposition of the income of a medical assistance income (Miller-type) trust. Miller-type trusts allow people whose income is above Medicaid limits but is less than the cost of care in a medical institution to attain eligibility by depositing their income in a trust. When a person's total income is less than the statewide average charge for a person's level of care, the trust releases income to the beneficiary only up to the limit for Medicaid eligibility (300 percent of the monthly SSI benefit, or \$1,692).

2004 Iowa Acts, House File 2378, changed the categories for which average charges are reported by eliminating figures for hospital-based and non-hospital-based Medicare-certified skilled nursing facilities as separate categories. Instead, if a person is receiving specialized care, such as Alzheimer's care or care for neurological disorders, the average cost of the specialized care will be used as the income limit for determining the disposition of the trust income.

Changes in the statewide average charge figures for state fiscal year 2005 are as follows:

- Nursing facility care: an increase to \$3,246 per month (previously \$3,180).
- ICF/MR care: an increase to \$10,752 per month (previously \$10,734).
- Mental health institute care: an increase to \$13,299 per month (previously \$9,991).

The figure for psychiatric medical institutions for children remains unchanged at \$4,477 per month. An increase in the average charge allows more people to qualify for Medicaid.

These amendments do not provide for waivers in specified situations because everyone should be subject to the same conditions in determining Medicaid eligibility as a matter of fairness, and these changes provide a benefit to applicants and recipients.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3465B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code section 249A.4 and sections 633.707 and 633.709 as amended by 2004 Iowa Acts, House File 2378.

ARC 3453B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments update rules for Medicaid reimbursement methodology for inpatient and outpatient hospital care related to payments for direct and indirect medical education and disproportionate share in state fiscal year 2005. The amounts allocated for these purposes remain the same as in state fiscal year 2004.

The amendments also make several other technical changes to Chapter 79, including:

- Clarifying that Medicaid fee schedules are now available from the Department's Web site instead of from the Medicaid fiscal agent.
- Replacing references to "Consultec" with references to "ACS State Healthcare" or "the fiscal agent."
- Correcting the pharmacy dispensing fee in subrule 79.1(2) to match the current figure in paragraph 79.1(8)"g."
- Updating the version number of Grouper software used in calculating outpatient reimbursement through ambulatory patient groups.

These amendments do not provide for waivers in specified situations because the changes are technical in nature.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3462B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code section 249A.4.

ARC 3454B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, Senate File 2298, section 138, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

These amendments implement changes in Medicaid reimbursement for nursing facility services as directed by 2004 Iowa Acts, Senate File 2298. This legislation mandates the following changes to the methodology for the calculation of nursing facility payments in the modified price-based case-mix reimbursement system:

- Adjusting allowable cost calculations by applying the most recently published HCFA/SNF index.
 - Reducing the excess payment allowance calculations.
- These amendments do not provide for waivers in specified situations because they benefit all affected providers.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3463B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, sections 138 and 154.

ARC 3452B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments affect Medicaid reimbursement for hospital care. The amendments provide for a payment to be added on to the blended base amount for Iowa state-owned hospitals with more than 500 beds to adjust for the high cost incurred for providing services to medical assistance patients. This was a legislative directive in 2004 Iowa Acts, Senate File 2298, division V, section 116, subsection 11.

These amendments do not provide for waivers in specified situations because they provide a benefit to those affected.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3461B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, division V, section 116, subsection 11.

ARC 3467B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6 and 2004 Iowa Acts, Senate File 2298, section 138, subsection 13, the Department of Human Services proposes to amend Chapter 150, “Purchase of Service,” and Chapter 185, “Rehabilitative Treatment Services,” Iowa Administrative Code.

These amendments:

- Continue rate limits in effect for Iowa purchase of social service contracts through state fiscal year 2005. These limits affect providers of adoption, shelter care, family planning, and supervised apartment living services. Reimburse-

HUMAN SERVICES DEPARTMENT[441](cont'd)

ment remains frozen at the levels in effect for state fiscal year 2001.

- Continue rate limits in effect for rehabilitative treatment and supportive service contracts through state fiscal year 2005. These limits affect providers of family preservation, family-centered, foster group care, and foster family care services. Reimbursement remains frozen at the levels in effect for state fiscal year 2001. Provisions for renegotiating rates continue to be suspended.

These amendments do not provide for waivers in specified situations because these policies are mandated by 2004 Iowa Acts, Senate File 2298 and House File 2577. The Department has no authority to waive provisions of law.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3459B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 138, subsections 6, 8, and 9.

ARC 3451B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6(6), the Department of Human Services proposes to amend Chapter 153, “Social Services Block Grant and Funding for Local Services,” Iowa Administrative Code.

These amendments change the eligibility and payment provisions under Division IV of the chapter, “State Payment Program for Services to Adults with Mental Illness, Mental Retardation, and Developmental Disabilities.” These amendments are necessary to contain State Payment Program expenses within the appropriated funds. The amendments:

- Limit eligibility for new applications to the State Payment Program after July 1, 2004, to persons whose income is at or below 150 percent of the federal poverty level and whose countable resources are within the limits applied by the federal Supplemental Security Income program (\$2000 for an individual). People who have applied for State Payment Program benefits before July 1, 2004, will not have to meet these requirements.

- Freeze all provider reimbursement rates to the level in effect on June 30, 2004. Providers under the program normally negotiate annual rate increases in May and June to be effective July 1. Historically, rates have increased 6 percent per year. Since the program appropriation for state fiscal

year 2005 is the same as the appropriation for state fiscal year 2004, no funds are available for a rate increase.

These amendments do not provide for waivers in specified situations because necessary savings will not be achieved if waivers are granted. Consumers or providers may request a waiver of these rules under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3458B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 131.

ARC 3450B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 234.6 and 600.22, the Department of Human Services proposes to amend Chapter 201, “Subsidized Adoptions,” Iowa Administrative Code.

In accordance with 2004 Iowa Acts, Senate File 2298, section 139, these amendments:

- Limit payment for nonrecurring expenses of foreign adoptions and for attorney fees to finalize an adoption to \$500 per child.

- Eliminate subsidy payments for child care except for families that have entered into an agreement including a child care payment before June 30, 2004. Payments for child care under these agreements shall be made in accordance with policies of the Department’s Child Care Assistance Program. Child care services are available through the Child Care Assistance Program to families that meet the program’s eligibility guidelines.

Exceptions to the policy on maximum payments for child care are authorized by 2004 Iowa Acts, Senate File 2298, section 139. These amendments do not otherwise provide for waivers in specified situations because the Department does not have the authority to waive provisions set in statute.

Any interested person may make written comments on the proposed amendments on or before July 28, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3457B**. The purpose

HUMAN SERVICES DEPARTMENT[441](cont'd)

of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 139.

ARC 3472B

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544B.5, the Landscape Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Examinations and Licensing," Iowa Administrative Code.

The proposed amendments adopt new definitions for interns and retired individuals, as well as more clearly outline the requirements for reinstatement of a lapsed license. These amendments are subject to waiver pursuant to 193—Chapter 5.

Any interested party may make written or oral comments on the proposed amendments on or before July 27, 2004. Comments should be addressed to Glenda Loving, Landscape Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, telephone (515)281-7362 or fax (515) 281-7411. E-mail may be sent to glenda.lovling@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A and 544B.

The following amendments are proposed.

ITEM 1. Amend rule **193D—2.1(544B,17A)** by adopting the following **new** definitions to be inserted in alphabetical order:

"Intern landscape architect" means an individual who has a degree in landscape architecture, who is employed under the direct supervision of a professional landscape architect, and who intends to actively pursue registration by completing the landscape architecture registration examination. The initials "I.L.A." should not be used.

"L.A., retired" means the same as "landscape architect, retired."

"Landscape architect, retired" means a person who held a license as a professional landscape architect and who is retired from the practice of landscape architecture in all states of registration.

"L.A.R.E." means the landscape architecture registration examination.

ITEM 2. Adopt **new** subrule 2.8(3) as follows:

2.8(3) Retired status. A person who held a license as a professional landscape architect and who is retired from the practice of landscape architecture in all states of registration may use the title "landscape architect, retired" or "L.A., retired," respectively, in the context of non-income-producing personal activities.

Retired status does not require payment of a fee.

ITEM 3. Rescind rule 193D—2.9(544B,17A) and adopt the following **new** rule:

193D—2.9(544B,17A) Reinstatement. An applicant for reinstatement must inform the board in writing of the intention to reinstate. The board shall use the following criteria when determining the individual requirements for reinstatement:

2.9(1) An individual may reinstate an expired license within two years by:

- a. Paying the reinstatement fee of \$100;
- b. Paying the current renewal fee;
- c. Providing a written statement outlining the professional activities of the applicant during the period of nonregistration; and

d. Submitting documented evidence of completion of 18 contact hours (6 hours in public protection subjects) of continuing education for each year or portion of a year of expired registration in compliance with requirements in 193D—Chapter 3. The hours reported shall be in addition to the 36 hours (12 hours in public protection subjects) which should have been reported on the June 30 renewal date at which the registrant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal.

2.9(2) An individual may reinstate a license which has been expired for more than two years by:

- a. Paying the reinstatement fee of \$100;
- b. Paying the current renewal fee;
- c. Providing a written statement outlining the professional activities of the applicant during the period of nonregistration; and

d. Submitting documented evidence of completion of continuing education as determined by the board. The board shall require no more than 72 hours (24 hours in public protection subjects); however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate.

The board shall review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take the L.A.R.E. as a prerequisite to reinstatement.

ARC 3488B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

These amendments add restrictions to Green Island and Odessa State Wildlife Areas.

Any interested person may make written suggestions or comments on the proposed amendments on or before July 27, 2004. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-

NATURAL RESOURCE COMMISSION[571](cont'd)

6156 or the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on July 27, 2004, at 2 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

The following amendments are proposed.

ITEM 1. Amend subrule 40.9(2) as follows:

40.9(2) All motorboats, except authorized emergency vessels, shall be operated at no-wake speed ~~between April 1 and October 1~~ yearly year around, on that portion of Lake Odessa known as the Sand Run Chute, lying south of the main lake to a point 100 yards south of the Sand Run Chute boat ramp.

ITEM 2. Renumber rule ~~571—40.49(462A)~~ as **571—40.50(462A)** and adopt the following new rule in lieu thereof:

571—40.49(462A) Zoning of Green Island, Jackson County. All motorboats except authorized emergency vessels shall operate at no-wake speed year around on boat channels adjacent to the interior channel 4 levee at the Green Island State Wildlife area. Both channels begin at the Green Island county road parking lot and proceed north 7920 feet along each side of the channel 4 levee to an intersection with the Snag Slough complex.

ARC 3487B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

This amendment will make it unlawful, under certain circumstances, to trespass on the Middle River Wildlife Area (formerly Banner Pits).

Any interested person may make written suggestions or comments on the proposed amendment on or before July 27, 2004. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156

or the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on July 27, 2004, at 10 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

The following amendment is proposed.

Amend subrule **52.1(2)** by adopting the following new paragraph "b":

b. It shall be unlawful to trespass in any manner on the following areas, where posted, anytime year around, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties and hunters under the supervision of department staff may enter when specifically authorized by the department of natural resources.

Area

County

Middle River Wildlife Area

(formerly Banner Pits) Allamakee

ARC 3489B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 105, "Deer Population Management Areas," Iowa Administrative Code.

This amendment sets licensing requirements for adults accompanying youth during special youth educational hunts at state parks or recreation areas.

Any interested person may make written suggestions or comments on the proposed amendment on or before July 27, 2004. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on July 27, 2004, at 10 a.m. in the Fourth Floor East Conference Room, Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

NATURAL RESOURCE COMMISSION[571](cont'd)

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendment is proposed.

Amend subrule **105.4(1)** by adopting the following new paragraph **"i"**:

i. For special youth educational hunts at state parks or recreation areas, licensing requirements for accompanying adults are the same as for youth deer hunts as established by 571—subrule 106.10(1).

ARC 3470B**NURSING BOARD[655]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Chapter 4, "Discipline," and Chapter 5, "Continuing Education," Iowa Administrative Code.

These amendments simplify reactivation processes, eliminate delinquent license status and place on inactive status all licenses not renewed within 30 days following renewal date. One fee is established for reactivation to replace four different fees. Editorial changes in discipline and continuing education rules reflect changes in the reactivation process and create uniformity in the rules.

Any interested person may make written comments or suggestions on or before September 8, 2004. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

There will be a public hearing on September 8, 2004, at 6:30 p.m. in the Des Moines West Room, Holiday Inn Downtown, 1050 6th Avenue, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 17A, 147, 152, and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **655—3.1(17A,147,152,272C)** by rescinding the definitions of "delinquent licensee," "lapsed license," and "reinstatement."

ITEM 2. Amend rule **655—3.1(17A,147,152,272C)**, definition of "fees," numbered paragraph **"7,"** to read as follows:

7. For reactivation of a license to practice as a registered nurse/licensed practical nurse, ~~based on \$33 per year, or any portion of a year, \$99 175 for a license lasting more than 24 months up to 36 months.~~

ITEM 3. Amend rule **655—3.1(17A,147,152,272C)**, definition of "fees," by rescinding numbered paragraph **"11."**

ITEM 4. Amend rule **655—3.1(17A,147,152,272C)** by rescinding the definition of "inactive licensee" and inserting in lieu thereof the following new definition:

"Inactive license" means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration date, or the board has received notification that a licensee has declared another compact state as primary state of residency. Pursuant to 655—subrule 16.2(4), the former home state license shall no longer be valid upon the issuance of a new home state license.

ITEM 5. Amend rule **655—3.1(17A,147,152,272C)** by rescinding the definition of "late licensee" and inserting in lieu thereof the following new definition:

"Late license" means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date on the wallet card. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

ITEM 6. Amend rule **655—3.1(17A,147,152,272C)**, definition of "reinstatement," to read as follows:

"Reinstatement" means the process by which ~~a delinquent licensee obtains a current license~~ *any person whose license to practice nursing has been suspended, revoked or voluntarily surrendered by order of the board may apply for license consideration.*

ITEM 7. Amend rule **655—3.1(17A,147,152,272C)**, definition of "verification," to read as follows:

"Verification" means the process whereby the board provides a certified statement that the license of a registered nurse/licensed practical nurse is active, inactive, or ~~lapsed~~ *encumbered*, or an advanced registered nurse practitioner is registered in this state.

ITEM 8. Rescind subrule 3.7(4) and insert in lieu thereof the following new subrule:

3.7(4) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 3.1(17A,147,152,272C).

To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date on the wallet card.

ITEM 9. Rescind subrule 3.7(5) and insert in lieu thereof the following new subrule:

3.7(5) Inactive status. The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card or the board office has been notified by another compact state that a licensee has declared a new primary state. Pursuant to 655—subrule 16.2(4), the former home state license shall no longer be valid upon the issuance of a new home state license.

a. If the inactive license is not reactivated, it shall remain inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the li-

NURSING BOARD[655](cont'd)

cense is reactivated to active status. If the licensee is identified as practicing nursing with an inactive license, disciplinary proceedings shall be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

d. To reactivate the license, the licensee shall contact the board office.

(1) The licensee shall be provided an application, a continuing education report form and statement of the fee. The reactivation fee is specified in rule 3.1(17A,147,152,272C).

(2) The licensee shall have obtained 12 contact hours of continuing education, as specified in 655—Chapter 5, within the 12 months prior to reactivation.

(3) Upon receipt of the completed application, required continuing education materials, the renewal fee and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the birth month.

ITEM 10. Rescind subrule 3.7(6) and renumber subrules 3.7(7) and 3.7(8) as 3.7(6) and 3.7(7).

ITEM 11. Amend rule 655—3.8(17A,147,152,272C) to read as follows:

655—3.8(17A,147,152,272C) Verification. Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 3.1(17A,147,152,272C), the board shall provide a certified statement to another jurisdiction or entity that the license of a registered nurse/licensed practical nurse is active, inactive or ~~lapsed~~ *encumbered* in Iowa.

ITEM 12. Amend rule 655—4.7(17A,147,152,272C), numbered paragraph “4,” to read as follows:

4. Civil penalty. A fine may be imposed in accordance with Iowa Code section 272C.3(2)“e.” Assessment of a fine shall be specified in the order and may not exceed a maximum amount of \$1,000. Fines may be incurred for:

- Practicing without an active license: \$50 for each calendar month or part thereof, beginning on the date that a licensee enters ~~delinquent~~ *inactive* status.
- Obtaining a license by falsification of continuing education records: \$50 for each contact hour falsified.
- Violating rule 4.6(17A,147,152,272C): an amount deemed appropriate.

ITEM 13. Amend subrule 5.2(2) to read as follows:

5.2(2) Requirements. To obtain a registered nurse or licensed practical nurse license for the next renewal period, the licensee shall ~~submit a completed report form which documents~~ *verify* the completion of continuing education requirements or exceptions to the requirements, as outlined in subrule 5.2(3).

ITEM 14. Rescind subrule 5.2(2), paragraph “a,” subparagraph (4).

ITEM 15. Amend subrule 5.2(2), paragraph “c,” to read as follows:

c. Continuing education credits from a previous license period *including all make-up credit* shall not be used, nor shall credits be accumulated for use in a future licensure period.

ITEM 16. Rescind subrule 5.2(4) and insert in lieu thereof the following **new** subrule:

5.2(4) Failure to meet requirements or exceptions to requirements. The licensee who fails to meet the requirements or the conditions for exceptions has the following options:

a. If the requirements or the conditions for exceptions are met during the late renewal period, as defined in rule 655—3.1(17A,147,152,272C), the licensee may retain the license in an active status.

(1) To remain active, the licensee shall complete the continuing education requirements as specified in subrule 5.2(2) or 5.2(3) as well as other requirements specified in 655—subrule 3.7(4). The licensee shall be required to submit to an audit of continuing education following the late renewal. The licensee shall automatically be reaudited when late credit has been accepted.

(2) Failure to renew within 30 days after expiration shall cause the license to be placed on inactive status.

b. An inactive license as defined in rule 655—3.1(17A,147,152,272C) may be reactivated.

c. To reactivate a license, the licensee shall obtain 12 contact hours of continuing education within the 12 months prior to reactivation and complete the requirements specified in 655—subrule 3.7(5).

ITEM 17. Amend subrule 5.2(5) by relettering paragraphs “b” to “g” as “c” to “h” and adding the following **new** paragraph “b”:

b. The licensee must submit verification of the requirements specified in 655—subrule 3.7(3).

ITEM 18. Amend subrule 5.2(5), relettered paragraph “d,” to read as follows:

d. If submitted materials are incomplete or unsatisfactory, the licensee shall be notified. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is within 90 days of receipt of the board office notification. *The licensee shall be reaudited during the next renewal period when make-up credit has been accepted.*

ARC 3476B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby gives Notice of Intended Action to amend Chapter 99, “Administrative and Regulatory Authority for the Board of Mortuary Science Examiners,” Chapter 101, “Licensure of Funeral Directors,” and Chapter 104, “Fees,” Iowa Administrative Code.

These proposed amendments adopt new subrules for the conduct of persons who attend public meetings, amend requirements for notifying the Board of name and address changes, and adopt new licensure renewal rules and new criteria and fees for obtaining a duplicate or reissued license and wallet card.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Any interested person may make written comments on the proposed amendments no later than July 28, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on July 28, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C.

The following amendments are proposed.

ITEM 1. Amend subrules 99.4(2) and 99.4(3) as follows:

99.4(2) Notice of change of address. Each licensee shall notify the board ~~in writing~~ of a change of the licensee's current mailing address within 30 days after the change of address occurs.

99.4(3) Notice of change of name. Each licensee shall notify the board *in writing* of ~~any a~~ change of name within 30 days after changing the name. ~~Notification requires a notarized copy of a marriage license or a notarized copy of court documents.~~

ITEM 2. Amend the parenthetical implementation for rule 645—99.6(17A) as follows:

645—99.6(17A 21)

ITEM 3. Adopt new subrules 99.6(3) and 99.6(4) as follows:

99.6(3) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

99.6(4) Cameras and recording devices may be used at open meetings provided the cameras and recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

ITEM 4. Amend the implementation clause for **645—Chapter 99** as follows:

These rules are intended to implement Iowa Code chapters 17A, 147, 21, and 156.

ITEM 5. Rescind rule 645—101.10(156) and adopt the following new rule in lieu thereof:

645—101.10(156) License renewal.

101.10(1) The biennial license renewal period for a license to practice funeral directing shall begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. The board shall notify the licensee at the address on record at least 60 days prior to expiration of the license. Failure to receive the renewal application shall not relieve the licensee of the obligation to pay the biennial renewal fees on or before the renewal date.

101.10(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

101.10(3) A licensee shall:

a. Meet the continuing education requirements of rule 645—102.2(272C); and

b. Submit the completed renewal application, continuing education report form and renewal fee before the license expiration date.

101.10(4) When all requirements for license renewal are met, the licensee shall be sent a wallet card by regular mail.

101.10(5) A person licensed to practice as a funeral director shall keep the license certificate displayed in a conspicuous public place at the primary site of practice.

101.10(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 104.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within 30 days following the expiration date on the wallet card.

ITEM 6. Renumber rules **645—101.11(272C)** to **645—101.15(17A,147,272C)** as **645—101.13(272C)** to **645—101.17(17A,147,272C)** and adopt the following new rules:

645—101.11(147) Duplicate certificate or wallet card.

101.11(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

101.11(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—104.1(147,156).

101.11(3) If the board receives a completed application for duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—101.12(147) Reissued certificate or wallet card. The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document, and payment of the fee as specified in rule 645—104.1(147,156).

ITEM 7. Amend subrule 104.1(5) as follows:

104.1(5) Duplicate *or reissued* license *certificate* fee is \$10.

ITEM 8. Renumber subrules **104.1(6)** to **104.1(11)** as **104.1(7)** to **104.1(12)** and adopt the following new subrule:

104.1(6) Duplicate or reissued wallet card fee is \$10.

ARC 3475B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care Examiners hereby gives Notice of Intended Action to amend Chapter 261, “Licensure of Respiratory Care Practitioners,” and Chapter 262, “Continuing

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Education for Respiratory Care Practitioners,” Iowa Administrative Code.

These proposed amendments change continuing education hour requirements from 30 to 24 hours per biennium.

Any interested person may make written comments on the proposed amendments no later than July 28, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on July 28, 2004, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 152B and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 261.9(4) as follows:

261.9(4) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education for that first license renewal time period only. ~~Thirty~~ *Twenty-four* hours of continuing education will be required for every renewal thereafter.

ITEM 2. Amend subrule **261.9(6)** by striking “30 hours” and inserting “24 hours” in lieu thereof wherever it appears.

ITEM 3. Amend subrule **261.10(6)** by striking “30 hours” and inserting “24 hours” in lieu thereof and by striking “60 hours” and inserting “48 hours” in lieu thereof wherever they appear.

ITEM 4. Amend subrule 262.2(1) as follows:

262.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of ~~30~~ *24* hours of continuing education approved by the board.

ITEM 5. Amend subrule 262.2(2) as follows:

262.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of ~~30~~ *24* hours of continuing education per biennium for each subsequent license renewal.

ITEM 6. Amend rule **645—262.6(152B,272C)**, numbered paragraph “6,” first bulleted paragraph, as follows:

- Satisfactory completion of continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying ~~30~~ *24* by the number of bienniums since the license lapsed to a maximum of two bienniums or ~~60~~ *48* hours of continuing education credit;

ITEM 7. Amend subrule **262.10(2)**, paragraph “b,” as follows:

b. Successful completion of ~~30~~ *24* hours of approved continuing education hours; or

ARC 3482B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 100B.10, the Department of Public Safety hereby proposes to amend Chapter 54, “Fire Fighter Certification,” Iowa Administrative Code.

The Fire Service and Emergency Response Council is charged in Iowa Code section 100B.2, subsection 4, to “develop and submit to the state fire marshal for adoption rules establishing minimum training standards for fire service training that will be applicable statewide, periodically review these standards, and offer rules as deemed appropriate.” The Council has been considering the development of minimum training standards for Iowa fire fighters since its inception in 2000. These proposed rules result from that deliberation, and were approved by the Council at its meeting on February 5, 2004.

These proposed rules provide for the establishment of a minimum training standard for fire fighters in Iowa. The proposed standard would apply to fire fighters involved in fighting “structural” fires which create the greatest risks in fire fighting. Training requirements for fire fighters other than those engaged in structural fire fighting are also provided, as are requirements for continuing training for fire fighters. Also proposed are definitions for “NFPA” (the National Fire Protection Association), which publishes the standard which is the basis for these requirements, and for “structural fire fighting,” which is the basis for the core training requirement proposed herein.

Another Notice of Intended Action proposing to amend 661—Chapter 54 is pending (**ARC 3294B**, IAB 4/14/04). That Notice proposed to renumber and amend existing rules concerning certification of fire fighters. The numbering of rules throughout the chapter will be coordinated fully when the amendments proposed in that Notice and this one are adopted and filed. One change which is likely to occur is that the substance of the rule proposed herein as 661—54.100(100B) will be incorporated in new rule 661—54.1(100B). The other rules included in this Notice will likely retain the numbering shown herein when adopted.

Public hearings on these proposed rules will be held on August 5, 2004, at 10 a.m. at the offices of the Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50011-3100, and on August 9, 2004, from 6 to 8 p.m. over the Iowa Communications Network. The August 9 hearing will be accessible from the following sites:

Des Moines Area Community College – Ankeny Campus
Room 8, Building 6
2006 South Ankeny Blvd.
Ankeny

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Scott Community College
Room 210
500 Belmont Rd.
Bettendorf

Kirkwood Community College
Room 203B, Linn Hall
6301 Kirkwood Blvd.
Cedar Rapids

Iowa Western Community College
Looft Hall
2700 College Rd.
Council Bluffs

Southwestern Community College
Room 211, Instructional Center
1501 West Townline Rd.
Creston

Iowa Lakes Community College
Room 818, Smith Wellness Center
3200 College Dr.
Emmetsburg

Iowa Central Community College
Room 206, Library
330 Ave. M
Fort Dodge

Iowa Valley Community College
Room 806, Continuing Ed. Center
3702 South Center St.
Marshalltown

North Iowa Area Community College
Room 106, Activity Center
500 College Dr.
Mason City

Indian Hills Community College
ICN Room 8, Video Conference Center
651 Indian Hills Dr.
Ottumwa

Northeast Iowa Community College
Room 139
10250 Sundown Rd.
Peosta

Northwest Iowa Community College
Room 402, Building D
603 West Park St.
Sheldon

Western Iowa Tech Community College
Room 925, Building A
4647 Stone Ave.
Sioux City

Hawkeye Community College
Room 110, Tama Hall
1501 E. Orange Rd.
Waterloo

Southeastern Community College
Room 503, North Campus/Trustee Hall
1500 West Agency
West Burlington

Persons may present their views orally or in writing at the public hearings. Persons who wish to make oral presenta-

tions at a public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, one day prior to the public hearing at which the person wishes to speak.

Any written comments or information regarding these proposed rules may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on August 4, 2004, or submitted at a public hearing. Persons who wish to convey their views orally other than at the public hearings may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on August 4, 2004.

These rules are intended to implement Iowa Code chapter 100B.

The following amendment is proposed.

Amend 661—Chapter 54 by adopting the following **new** division:

DIVISION I
MINIMUM TRAINING STANDARDS

661—54.100(100B) Definitions. The following definitions apply to rules 661—54.101(100B) through 54.104(100B):

“NFPA” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“Structural fire fighting” means fire fighting in a hazardous environment, for which a fire fighter needs personal protective equipment and self-contained breathing apparatus.

661—54.101(100B) Minimum training standard. On or after July 1, 2006, any member of a fire department shall have completed the training requirements identified in the job performance requirements for the fire fighter I classification in NFPA 1001, Standard for Fire Fighter Professional Qualifications, 2002 edition, chapter 5, prior to the member’s engaging in structural fire fighting. Each fire department shall identify its members who are or will be engaged in structural fire fighting and shall ensure that any member engaged in structural fire fighting on or after July 1, 2006, has completed the training requirements specified in this rule prior to the member’s engaging in structural fire fighting.

NOTE: A fire fighter is not required to be certified to meet this requirement.

EXCEPTION: A fire fighter who received training which complied with the job performance requirements for the fire fighter I classification contained in an earlier edition of NFPA 1001 shall be deemed to have met this requirement, provided that records documenting the training are maintained in accordance with rule 661—54.104(100B).

661—54.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural fire fighting at an emergency incident shall receive training based on the duties the member might perform at an emergency incident.

661—54.103(100B) Continuing training. All fire department members shall participate in at least 24 hours of continuing training annually, which shall be selected from the following subject areas:

- Personal protective equipment and respiratory protection
- Structural fire fighting techniques including standard operating policies or standard operating guidelines

PUBLIC SAFETY DEPARTMENT[661](cont'd)

- Ground ladders
- Hose and hose appliances
- Ventilation
- Forcible entry
- Search and rescue techniques
- Fire fighter safety
- Incident management system or incident command system
- Emergency vehicle driver-operator
- Hazardous materials first responder—operations level
- Emergency medical service (EMS) training
- Additional training based on standard operating procedures or standard operating guidelines
- Other Occupational Safety and Health Administration (OSHA)-related training, such as blood-borne pathogen protection
- Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural fire fighting techniques
- Emergency response to terrorism
- Any other training designed to meet local training needs

661—54.104(100B) Record keeping. Each fire department shall maintain training records for each individual member of the department who participates in emergency incidents. These training records shall identify, for all training completed by the individual fire fighter, the vendor that provided the training, the dates during which the training was completed, the location or locations where the training was delivered, and a description of the content of the training.

ARC 3481B

PUBLIC SAFETY
DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 55, “Fire Fighter Training and Equipment Funds,” Iowa Administrative Code.

The Department of Public Safety has received an appropriation each year since state fiscal year 1998 for “costs associated with the training and equipment needs of volunteer fire fighters.” While there is no corresponding language in the Iowa Code, these moneys have been included in an appropriations bill each year and have been administered by the Fire Marshal Division as the Volunteer Fire Fighter Training and Equipment Fund. Rules governing the administration of these funds are found in 661—Chapter 55, Iowa Administrative Code. The rules proposed here would provide criteria for the expenditure of additional related funds provided by the Iowa General Assembly in 2003 and 2004. 2003 Iowa Acts, chapter 177, section 11, provided for \$50,000 “for the planning, design, and construction of regional [fire] training facilities.” 2003 Iowa Acts, chapter 105, now codified as

Iowa Code Supplement section 100B.12, created the Paul Ryan Memorial Fire Fighter Safety Training Fund, consisting of moneys collected from the sale of fire fighter license plates and earmarked for use by the Fire Service Training Bureau to offset fire fighter training costs. 2004 Iowa Acts, Senate File 2298, section 434, created the Volunteer Fire Fighter Preparedness Fund, with moneys from an income tax check-off, to be used annually to pay the “costs of providing volunteer fire fighter training around the state and to pay the costs of providing volunteer fire fighting equipment.”

A public hearing on these proposed rules will be held on August 5, 2004, at 9:30 a.m. in the Conference Room, Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50011. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed rules may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These rules are intended to implement Iowa Code Supplement section 100B.12, 2003 Iowa Acts, chapter 177, section 11, and 2004 Iowa Acts, Senate File 2298, section 434.

The following amendments are proposed.

ITEM 1. Amend 661—Chapter 55 by adopting the following **new** rules:

661—55.104(100B) Paul Ryan memorial fire fighter safety training fund. Funds collected from the sale of special fire fighter license plates and deposited to the Paul Ryan memorial fire fighter safety training fund shall be utilized by the fire service training bureau to defray the cost of training provided to any fire fighter currently employed by or serving as a volunteer with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—55.101(17A,77GA,ch1222).

This rule is intended to implement Iowa Code Supplement section 100B.12.

661—55.105(80GA,SF2298) Volunteer fire fighter preparedness fund. Funds appropriated to the volunteer fire fighter preparedness fund pursuant to 2004 Iowa Acts, Senate File 2298, section 434, shall be utilized by the fire service training bureau to defray the cost of training provided to fire fighters currently serving as volunteers with any fire department in Iowa. Application of these funds shall be limited to defraying the cost of training courses approved for reimbursement from the volunteer fire fighter training and equipment fund established in rule 661—55.101(17A,77GA,ch1222).

This rule is intended to implement 2004 Iowa Acts, Senate File 2298, section 434.

ITEM 2. Amend 661—Chapter 55 by adopting the following **new** division:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

DIVISION III
REGIONAL TRAINING FACILITY FUNDS

661—55.301(80GA,ch177) Regional training facility funds. 2003 Iowa Acts, chapter 177, section 11, subsection 2, appropriated \$50,000 for the “planning, design, and construction of regional training facilities in the state.” This rule establishes the criteria and procedures for allocation of those funds. A training center is a location or facility where formal fire service training and educational activities take place. Training centers may consist of the following fixed facilities:

- Administrative offices
- Classrooms and laboratories
- Student support facilities (cafeteria, dressing and locker areas, storage)
- Burn building
- Smokehouse
- Drill tower
- Skills building
- Training pads with specialized training props
- Maintenance facilities

55.301(1) Use of funds. The funds shall be allocated for the following purposes, in priority order.

- a. Development of a detailed plan, based on the existing fire service training bureau facilities plan and approval of the fire service training bureau.
- b. A portion of the construction costs for a regional training center, the design of which is based on the existing fire service training bureau facilities plan and approval of the fire service training bureau.
- c. To refurbish an existing training center to meet the provisions of the existing fire service training bureau facilities plan, with the approval of the fire service training bureau.
- d. Development and construction of training props to be used in a training center in compliance with the fire service training bureau facilities plan and with approval of the fire service training bureau.

A copy of the fire service training bureau facilities plan may be requested from the Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50011, by telephone at 1-888-469-2374, or electronic mail at fstbinfo@dps.state.ia.us.

55.301(2) Minimum criteria. In order for an applicant to qualify for funding, all of the following criteria, as applicable, must be met:

- a. The regional training center must be available for the purpose of fire service training to fire service personnel from the region in which the center is located and for training provided through the auspices of the fire service training bureau.
- b. The regional training center design must meet the minimum “live fire” training elements outlined in NFPA 1001, 2002 edition, Chapter 5 (as identified for fire fighter I standards).
- c. An organization that requests funding must agree to comply with applicable fire reporting requirements of the division of the state fire marshal.
- d. The requested funding must be for a project for which the planning process had commenced by January 1, 2004.

55.301(3) Application process. An organization that wishes to apply for funds shall submit the following:

- a. A letter of application explaining the funding requested and the primary purpose of the requested funding.
- b. A detailed plan for the use of the funds requested.
- c. Documents demonstrating compliance with the existing fire service training bureau facilities plan and the approval of the fire service training bureau for the planned facility.

d. A document that identifies the region of the state to be served, with a list of organizations that plan to participate in training offered at the planned facility.

e. Endorsement letters from the participating organizations identified within the region.

f. A plan for the sharing of the facility and related resources.

55.301(4) Review of applications and distribution of funds.

a. The state fire and emergency response council, or a committee of the council, shall review the applications and recommend funding or not funding each to the fire marshal and the chief of the fire service training bureau.

b. Funds shall be equally distributed to qualified applicants.

c. Awards shall be made by the fire marshal. Any applicant that is denied funding may appeal the decision to the commissioner as a request for a contested case pursuant to rule 661—10.301(17A).

d. The fire service training bureau will audit all use of funds and compliance with all terms of the award of any moneys for regional training centers. Assistance may be provided by the finance bureau of the department of public safety.

This rule is intended to implement 2003 Iowa Acts, chapter 177, section 11.

ARC 3480B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 100B.10, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 59, “Volunteer Emergency Services Provider Death Benefits,” Iowa Administrative Code.

The Volunteer Emergency Services Provider Death Benefit Program, established by Iowa Code section 100B.11 and 661—Chapter 59, provides a death benefit to the beneficiary or beneficiaries of a volunteer emergency services provider (volunteer fire fighter, reserve peace officer, or volunteer emergency medical provider) who suffers a line-of-duty death. 2004 Iowa Acts, Senate File 2044, enacted during the 2004 Session of the Iowa General Assembly, amended the eligibility provisions of the Volunteer Emergency Services Provider Death Benefit Program by changing the definition of a line-of-duty death. Since the inception of the program in 2000, a death, even if it occurred while the provider was on duty, was not considered a line-of-duty death eligible for the death benefit if it resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including a heart attack. This provision mirrored eligibility then in effect in the federal Public Safety Officers Death Benefit Program, which provides line-of-duty death benefits to peace officers and fire fighters. In late 2003, a change was enacted to the federal program which provided that, with some limi-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

tations, deaths from heart attacks or strokes which occur while the service provider is on duty or within 24 hours of being on duty are line-of-duty deaths if the provider was engaged in "nonroutine stressful or strenuous physical activity within the scope of the provider's duties." The changes enacted to the state program in 2004 Iowa Acts, Senate File 2044, and proposed in these amendments mirror the recent change in the federal program.

A public hearing on these proposed amendments will be held on August 5, 2004, at 9:45 a.m. in the Conference Room of the Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50011. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3479B**. The content of that submission is incorporated by reference. This Notice of Intended Action will provide for an opportunity for public comment on the changes to the rules.

These amendments are intended to implement Iowa Code section 100B.11 as amended by 2004 Iowa Acts, Senate File 2044.

ARC 3449B

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Chapter 3, "Fair Information Practices," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track and Excursion Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," Chapter 7, "Greyhound Racing," Chapter 9, "Harness Racing," Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 11, "Gambling Games," Iowa Administrative Code.

All of the amendments result from 2004 Iowa Acts, House File 2302, technological advances, or current practice. All of the amendments are nonsubstantive in nature with the following exceptions:

Items 2 and 9 insert the word "gambling" to update legislative definitions to implement 2004 Iowa Acts, House File 2302.

Item 3 incorporates legislative language about keeping information gathered during an investigation confidential while the investigation is ongoing.

Item 11 adds requirements for information that must be submitted with the licensee's annual reports.

Item 13 allows a Commission representative to place a gambling game in operation pending approval under 661—paragraph 23.9(11)"c."

Item 14 requires that any contract for devices that allow for cash or credit must contain a clause stating that, when technology becomes available, a person must be allowed to voluntarily bar the person's access to receive cash or credit from these devices.

Item 15 requires the Commission to review contracts to ensure the utilization of Iowa products.

Item 16 removes the admission fee requirement.

Item 18 requires licensees to have a program in place to allow for persons to voluntarily exclude themselves for life from all facilities.

Item 19 makes licensees responsible for the conduct of nonlicensed persons in nonpublic areas of the facility.

Items 20 and 21 designate the gaming floor and wagering area.

Item 22 defines an excursion boat and a moored barge.

Item 23 amends the number of excursions and the length of the excursions.

Item 24 clarifies what date will be utilized for a conviction.

Item 25 allows for an interim identification badge.

Items 33 and 38 require a witness to be present during the administration of furosemide.

Items 34 and 40 require the witness to the administration of the furosemide to sign the affidavit.

Item 39 requires a jockey agent to honor the first call given.

Item 41 clarifies what type of gaming is allowed at race-track enclosures.

Item 42 changes the requirements regarding the notification to the Commission about the moving of slot machines.

Any person may make written suggestions or comments on the proposed amendments on or before July 27, 2004. Written material should be directed to the Racing and Gaming Commission, 717 E. Court Avenue, Suite B, Des Moines, Iowa 50309.

Also, there will be a public hearing on July 27, 2004, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court Avenue, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F as amended by 2004 Iowa Acts, House File 2302.

The following amendments are proposed.

ITEM 1. Amend rule 491—1.4(17A,22,99F) as follows:

491—1.4(17A,22,99D,99F) Open records. Except as provided in Iowa Code sections 17A.2(11)"f," and 22.7, 99D.7(8), and 99F.4(6), all public records of the commission shall be available for public inspection during business hours. Requests to obtain records may be made either by mail, telephone, or fax or in person. Minutes of commission meetings, forms, and other records routinely requested by the public may be obtained without charge or viewed on the commis-

RACING AND GAMING COMMISSION[491](cont'd)

sion's Web site. Other records requiring more than ten copies may be obtained upon payment of the actual cost for copying. This charge may be waived by the administrator.

ITEM 2. Amend subrules 1.5(1) and 1.5(3), catchwords, as follows:

1.5(1) ~~Racetrack~~ *Racing* or excursion *gambling* boat license application.

1.5(3) Renewal application for excursion *gambling* boat license.

ITEM 3. Amend subrule **3.13(2)** by relettering paragraphs "i" and "j" as "j" and "k" and adding a new paragraph "i" as follows:

i. Information gathered during an investigation during pendency of the investigation. (Iowa Code sections 99D.7(8) and 99F.4(6))

ITEM 4. Amend subrule 3.14(3) as follows:

3.14(3) List of contested cases and stewards' hearings. The commission ~~utilizes~~ *may utilize* a listing of contested case and stewards' hearings furnished the ~~Association of Racing Commissioners International by a national organization~~ and ~~provides~~ *provide* individually identifiable information to that organization. The list is used for purposes delineated in Iowa Code chapter 99D.

ITEM 5. Rescind and reserve subrule **4.4(1)**, paragraph "c."

ITEM 6. Rescind and reserve subrule **4.5(11)**.

ITEM 7. Rescind and reserve subrule **4.6(5)**, paragraph "h."

ITEM 8. Amend 491—Chapter 4 by adding a new rule as follows:

491—4.10(99D,99F) Appeals of administrative actions.

A license applicant or an occupational licensee may appeal a denial, suspension or ruling. An appeal must be made in writing to the office of the gaming representative or the commission office in Des Moines. The appeal must be received within 72 hours of service of the decision and is not considered filed until received by the commission. The appeal must contain numbered paragraphs and set forth the name of the person seeking review; the decision to be reviewed; separate assignments of error; clear and concise statement of relevant facts; reference to applicable statutes, rules or other authority; prayer setting forth relief sought; and signature, name, address, and telephone number of the person seeking review or that person's representative; or shall be on a form prescribed by the commission. If a licensee is granted a stay of a suspension pursuant to 491—4.45(17A) and the ruling is upheld in a contested case proceeding, the board of stewards may reassign the dates of suspension so that the suspension dates are served in the state of Iowa.

ITEM 9. Amend the title of **491—Chapter 5** as follows:

CHAPTER 5

TRACK AND EXCURSION GAMBLING BOAT
LICENSEES' RESPONSIBILITIES

ITEM 10. Amend **491—Chapter 5** by changing the word "grounds" to "premises" wherever it appears.

ITEM 11. Amend rule 491—5.2(99D,99F) as follows:

491—5.2(99D,99F) Annual reports. Licensees shall submit audits to the commission as required by Iowa Code sections 99D.20 and 99F.13. The audit of financial transactions

and condition of licensee's operation shall include an internal control letter, a balance sheet, and a profit-and-loss statement pertaining to the licensee's activities in the state, including a breakdown of expenditures *and subsidies*. If the licensee's fiscal year does not correspond to the calendar year, a supplemental schedule indicating financial activities on a calendar year basis shall be included in the report. In the event of a license termination, change in business entity, or material change in ownership, the administrator may require the filing of an interim report, as of the date of occurrence of the event. The filing due date shall be the later of 30 calendar days after notification to the licensee or 30 calendar days after the date of the occurrence of the event, unless an extension is granted.

5.2(1) The annual audit report required by Iowa Code section 99D.20 shall include a schedule detailing the following information: number of performances; ~~taxable~~ attendance ~~and the dollar amount remitted to the state~~; *regulatory fee*; total mutuel handle and taxes paid to state, city, and county *and gambler's treatment fund*; unclaimed winnings; purses paid indicating sources; total breakage and disbursements; and the disbursements of 1 percent of the ~~triples exotic wagers on three or more racing animals~~.

5.2(2) The annual audit report required by Iowa Code section 99F.13 shall include:

a. A schedule detailing a weekly breakdown of adjusted gross revenue; taxes paid to the state, city, county, *county endowment fund*, and gambler's treatment *fund*; and ~~admission~~ *regulatory* fees.

b. A report on whether material weaknesses in internal accounting control exist.

c. A report on whether the licensee has followed the system of internal accounting control approved by the administrator.

ITEM 12. Amend subrule **5.4(5)**, paragraph "b," as follows:

b. Employ adequate security. Each licensee shall employ sufficient security to remove ~~from the licensed premises~~ a person violating a provision of Iowa Code chapter 99D or 99F, commission rules, or orders; any person deemed to be undesirable by racing and gaming commission officials; or any person engaging in a fraudulent practice ~~from the licensed premises~~. Security shall also be provided in and about the ~~grounds premises~~ to secure restricted areas ~~such as including, but not limited to~~, the barn area, kennel area, paddock, and *racing animal drug testing area*.

ITEM 13. Amend subrule 5.4(7) as follows:

5.4(7) ~~Videotaping~~ *Video recording*. Licensees are required to conduct continuous surveillance with the capability of ~~videotaping video recording~~ all gambling activities under Iowa administrative rules 661—Chapter 23, promulgated by the department of public safety. *A commission representative may allow a gambling game to be placed in operation pending approval under 661—paragraph 23.9(11) "c."*

ITEM 14. Amend subrule **5.4(8)**, paragraph "a," by adding the following new subparagraph (4):

(4) Any type of contract, regardless of value or term, where a third party provides electronic or mechanical access to cash or credit for a patron of the facility. The contract must contain a clause that provides for immediate notification and implementation when technology becomes available to allow a person to voluntarily bar the person's access to receive cash or credit from such devices located on the licensed premises.

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 15. Amend subrule **5.4(8)**, paragraph **“b,”** as follows:

b. Purpose of review. The commission conducts reviews to serve the public interest to ensure that:

(1) Gaming is free from criminal and corruptive elements.

(2) Gaming-related funds are directed to the lawful recipient.

(3) Gaming profits are not improperly distributed.

(4) ~~Consideration is given to the use of Iowa resources, goods and services are utilized.~~ Resources, goods, and services shall be considered to ~~be from Iowa be made in Iowa, be provided by Iowans, or emanate from Iowa~~ if one or more of the following apply:

1. to 7. No change.

A facility shall be considered to have utilized a substantial amount of Iowa resources, goods, services and entertainment in compliance with Iowa Code ~~section~~ sections 99D.9 and 99F.7(4) as amended by 2004 Iowa Acts, House File 2302, section 11 and section 43, respectively, if the facility demonstrates to the satisfaction of the commission that preference was given to the extent allowed by law and other competitive factors.

ITEM 16. Rescind subrule 5.4(10) and insert in lieu thereof the following **new** subrule:

5.4(10) Taxes and fees.

a. Annual taxes and fees. All taxes and fees, whose collection by the state is authorized under Iowa Code chapters 99D and 99F, shall be accounted for on a fiscal-year basis, each fiscal year beginning on July 1 and ending on June 30.

b. Submission of taxes and fees. All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. A week shall begin on Monday and end on Sunday. The reporting form must be received in the commission office by 3 p.m. on Wednesday following the week's end. The moneys owed, according to the reporting form, must be received in the treasurer's office by 11 a.m. on the Thursday following the week's end. Additionally, each licensee shall file a monthly report indicating adjusted gross receipts received from gambling games, total number of admissions, and amount of regulatory fees paid. These reports shall be by calendar month and filed by close of the third business day following the end of the month.

ITEM 17. Amend subrule 5.4(12), catchwords, as follows:

5.4(12) ~~Gambling treatment program~~ Problem gambling.

ITEM 18. Amend subrule **5.4(12)**, paragraph **“a,”** as follows:

a. The holder of a license to operate gambling games shall adopt and implement policies and procedures designed to:

(1) Identify problem gamblers; and

(2) ~~Prevent previously identified problem gamblers from gambling at the licensee's facility or other facilities licensed by the state of Iowa~~ Allow persons to be voluntarily excluded for life from all facilities. Each facility will disseminate information regarding the exclusion to all other facilities.

ITEM 19. Amend subrule 5.4(16) as follows:

5.4(16) Officers, agents, and employees. Licensees are accountable for the conduct of their officers, agents, and employees. The commission or commission representative re-

serves the right to impose penalties against the license holder or its officer, agent, employees, or both as the commission or commission representative determines appropriate. *In addition, the licensee shall be responsible for the conduct of non-licensed persons in nonpublic areas of the excursion gambling boat or racetrack enclosure.*

ITEM 20. Amend rule 491—5.4(99D,99F) by adding the following **new** subrule:

5.4(17) Designated gaming floor. The designated gaming floor is all areas occupied by or accessible from a gambling game, not otherwise obstructed by a wall, door, partition, barrier, or patron entrance. A patron entrance shall be identified by a sign visible to patrons approaching the gaming floor. The sign shall denote entrance to the gaming floor and specify that the gaming floor is not accessible to persons under the age of 21. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation.

ITEM 21. Amend rule 491—5.5(99D) by adding the following **new** subrule:

5.5(11) Designated wagering area. The designated wagering area is a rectangular area within a minimum of five feet from the front and from either side of a stationary wagering window or self-service wagering device, not otherwise obstructed by a wall or other barrier. The facility shall either section off or clearly delineate the floor of the area and post a sign near the area, which is visible to patrons approaching the area, denotes the wagering area and specifies that the wagering area is not accessible to persons under the age of 21. The designation applies only when the wagering window or device is open to transact wagering. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation.

ITEM 22. Amend subrule 5.6(1) as follows:

5.6(1) ~~Boat design~~ Excursion gambling boat.

a. *Capacity.* The minimum passenger capacity necessary for an excursion gambling boat is 250.

b. ~~Boats must be self-propelled.~~ *Excursion boat.* A boat self-propelled, floating “vessel” as defined by the U.S. Coast Guard may contain more than one “vessel” as defined by the U.S. Coast Guard. In order to be utilized for gaming purposes, the vessel containing the casino must either contain a permanent means of propulsion or have its means of propulsion contained in an attached vessel. In the event that the vessel containing the casino is propelled by a second vessel, the boat will be considered self-propelled only when the vessels are designed, constructed, and operated as a single unit.

c. *Moored barge.* “Barge” means any man-made stationary structure where the entire gaming floor is at all times located on a body of water as allowed under Iowa Code section 99F.7, subsection 1, as amended by 2004 Iowa Acts, House File 2302, section 41, and as approved by the commission.

ITEM 23. Amend subrule **5.6(2)**, paragraph **“a,”** as follows:

a. *Length.* The excursion season shall be from April 1 through October 31 of each calendar year. An excursion gambling boat must operate at least one excursion each day for 100 days during the excursion season to operate during the off-season, although a waiver may be granted by the commission in the first year of a boat's operation if construction

RACING AND GAMING COMMISSION[491](cont'd)

of the boat was not completed in time for the boat to qualify. Excursions shall consist of a minimum of ~~two hours~~ *one hour* in transit during the excursion season. The number of excursions per day is not limited. During the excursion season and the off-season, while the excursion gambling boat is docked, passengers may embark or disembark at any time during its business hours pursuant to Iowa Code section 99F.4(17).

ITEM 24. Amend rule **491—6.1(99D,99F)**, definitions of “conviction” and “licensee,” as follows:

“Conviction” means the act or process of judicially finding someone guilty of a crime; the state of a person’s having been proved guilty; the judgment that a person is guilty of a crime or criminal offense, which includes a guilty plea entered in conjunction with a deferred judgment, and a juvenile who has been adjudicated delinquent. *The date of conviction shall be the date the sentence and judgment is entered.*

“Licensee” means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license *for a person to engage work in the pari-mutuel, racetrack enclosure, or excursion gambling boat gambling industry* in Iowa.

ITEM 25. Rescind subrule 6.2(6) and insert in lieu thereof the following **new** subrule:

6.2(6) Interim identification badge.

a. All interim identification badges issued by a facility must be recorded in a logbook, which is available for inspection by commission or DCI representatives. The logbook must reflect the following information: date issued; user’s name and date of birth (verified by photo ID); occupation; badge number; issuer; time issued; and time returned. Badges shall only be issued on a daily basis and must be returned before the employee leaves facility premises. A badge shall be effective only until the commission licensing office’s next day of business, and may not be used to avoid obtaining a duplicate license.

b. A badge shall only be issued if:

(1) An employee is hired during a time that the commission licensing office is closed; or

(2) An employee is not in possession of the employee’s occupational license.

ITEM 26. Amend subrule **6.5(3)**, paragraphs “e” and “j,” as follows:

e. Theft or deceptive practice of any nature on the ~~grounds~~ *premises* of a facility.

j. Illegal sale, possession, receipt, or use of a controlled substance or drug paraphernalia; intoxication; use of profanity; fighting; making threatening or intimidating statements; engaging in threatening or intimidating behavior; or any conduct of a disorderly nature on facility ~~grounds~~ *premises*.

ITEM 27. Rescind subrule **6.13(4)**.

ITEM 28. Amend **491—Chapter 7** by changing the word “grounds” to “premises” wherever it appears.

ITEM 29. Amend subrule **7.2(2)**, paragraph “a,” as follows:

a. Equipment necessary to produce adequate ~~videotapes~~ *video recordings* of the prerace blanket and muzzle inspection and the entire race from start to finish. ~~Videotapes~~ *Video recordings* shall be retained and secured by the facility until the first day of the following racing season.

ITEM 30. Amend **491—Chapter 9** by changing the word “grounds” to “premises” and the word “lasix” to “furosemide” wherever these words appear.

ITEM 31. Amend subrule 9.2(15) as follows:

9.2(15) Patrol films or ~~videotapes~~ *video recordings*. Each facility shall provide:

a. A ~~videotaping~~ *video recording* system approved by the commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review, shall be provided in the stewards’ stand. The location and construction of video towers must be approved by the commission.

b. One camera, designated by the commission, to ~~videotape record~~ the prerace of all horses approaching the starting gate and to continue to ~~videotape record~~ them until the field is dispatched by the starter.

c. One camera, designated by the commission, to ~~videotape record~~ the apparent winner of each race from the finish line until the horse has returned and the driver has dismounted.

d. At the discretion of the stewards, video camera operators to ~~videotape record~~ the activities of any horses or persons handling horses prior to, during, or following a race.

e. At least three video cameras to record races run on an oval track.

f. Upon request ~~to~~ *of* the commission, without cost, a copy of a ~~videotape~~ *video recording* of a race.

g. That ~~videotapes~~ *video recordings* recorded prior to, during, and following each race be maintained by the facility for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

h. A viewing room in which, on approval by the stewards, an owner, trainer, driver, or other interested individual may view a ~~videotape~~ *video recording* of a race.

i. Following any race in which there is an inquiry or objection, the ~~videotaped~~ *video recorded* replays of the incident in question which were utilized by the stewards in making their decision. The facility shall display to the public these ~~videotaped~~ *video recorded* replays on designated monitors.

ITEM 32. Rescind and reserve subrule **9.4(11)**, paragraph “i.”

ITEM 33. Rescind subrule **9.5(1)**, paragraph “a,” subparagraph (6), and insert in lieu thereof the following **new** subparagraph:

(6) Being present to witness the administration of furosemide during the administration time and sign as the witness on the affidavit form. A licensed designee of the trainer may witness the administration of the furosemide and sign as the witness on the affidavit form; however, this designee may not be another practicing veterinarian or veterinary assistant.

ITEM 34. Amend subrule **9.7(4)**, paragraph “d,” as follows:

d. Within 20 minutes following the administration of ~~lasix~~ *furosemide*, the veterinarian must deliver to the commission veterinarian or commission representative a signed affidavit certifying information regarding the treatment of the horse. The statement must include, at a minimum, the name of the practicing veterinarian, the tattoo number or freeze brand number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the ~~lasix~~ *furosemide* was administered. *This affidavit must be signed by the trainer or trainer’s designee who witnessed the administration of furosemide. The veterinarian shall not administer the furose-*

RACING AND GAMING COMMISSION[491](cont'd)

vide if a witness is not present. Lasix Furosemide shall only be administered only in a dose level of 250 milligrams.

ITEM 35. Amend **491—Chapter 10** by changing the word “grounds” to “premises” and the word “lasix” to “furosemide” wherever these words appear.

ITEM 36. Amend subrule 10.2(11) as follows:

10.2(11) Patrol films or videotapes video recordings. Each facility shall provide:

a. A videotaping video recording system approved by the commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review, shall be provided in the stewards' stand. The location and construction of video towers must be approved by the commission.

b. One camera, designated by the commission, to videotape record the prerace loading of all horses into the starting gate and to continue to videotape record them until the field is dispatched by the starter.

c. One camera, designated by the commission, to videotape record the apparent winner of each race from the finish line until the horse has returned and the jockey has dismounted, and the equipment has been removed from the horse.

d. At the discretion of the stewards, video camera operators to videotape record the activities of any horses or persons handling horses prior to, during, or following a race.

e. That races run on an oval track be recorded by at least three video cameras. Races run on a straight course must be recorded by at least two video cameras.

f. Upon request to of the commission, without cost, a copy of a videotape video recording of a race.

g. Videotapes That video recordings recorded prior to, during, and following each race be maintained by the facility for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

h. A viewing room in which, on approval by the stewards, an owner, trainer, jockey, or other interested individual may view a videotape video recording of a race.

i. Following any race in which there is an inquiry or objection, the videotaped video recorded replays of the incident in question which were utilized by the stewards in making their decision. The licensee facility shall display to the public these videotaped video recorded replays on designated monitors.

ITEM 37. Rescind and reserve subrule **10.4(17)**, paragraph “i.”

ITEM 38. Rescind subrule **10.5(1)**, paragraph “a,” subparagraph (6), and insert in lieu thereof the following **new** subparagraph:

(6) Being present to witness the administration of furosemide during the administration time and sign as the witness on the affidavit form. A licensed designee of the trainer may witness the administration of the furosemide and sign as the witness on the affidavit form; however, this designee may not be another practicing veterinarian or veterinary assistant.

ITEM 39. Amend subrule **10.5(3)**, paragraph “a,” by adding the following **new** subparagraph (6):

(6) A jockey agent must honor a first call given to a trainer or the trainer's assistant trainer.

ITEM 40. Amend subrule **10.7(4)**, paragraph “d,” as follows:

d. Within 20 minutes following the administration of lasix furosemide, the veterinarian must deliver to the commission veterinarian or commission representative a signed affidavit certifying information regarding the treatment of the horse. The statement must include, at a minimum, the name of the practicing veterinarian, the tattoo number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the lasix furosemide was administered. *This affidavit must be signed by the trainer or trainer's designee who witnessed the administration of furosemide. The veterinarian shall not administer the furosemide if a witness is not present. Lasix Furosemide shall only be administered in a dose level of 250 milligrams.*

ITEM 41. Amend subrule 11.5(2) as follows:

11.5(2) Slot machines, video poker, and all other video games of chance, both progressive and nonprogressive, shall be allowed as slot machine games, subject to the administrator's approval of individual slot machine prototypes and game variations. For racetrack enclosures *without a table games license, video machines which simulate table games of chance shall not be allowed.* “video machine” as used in Iowa Code section 99F.1(9) shall mean video keno and any video machine game version of a table or card game, including but not limited to those listed in 11.5(1).

ITEM 42. Rescind subrule 11.9(1) and insert in lieu thereof the following **new** subrule:

11.9(1) Movement.

a. Any entity providing slot machines to a licensed facility must file written notice with the commission at least five calendar days prior to receipt of the machines by the facility. A licensed facility selling or an owner removing slot machines from the facility must file written notice with the commission at least one day prior to removal. Notification by facsimile or E-mail shall be considered written notice.

b. The administrator may approve licensee transfers of slot machines among subsidiaries of the licensee's parent company.

ARC 3448B

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Iowa Administrative Code.

This amendment rescinds the limitation on location and number of racetracks and excursion gambling boats and the requirement for prior Commission approval of and criteria for increasing the number of gaming machines or table games at existing facilities.

RACING AND GAMING COMMISSION[491](cont'd)

Any person may make written suggestions or comments on the proposed amendment on or before July 27, 2004. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309.

Also, there will be a public hearing on July 27, 2004, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

This amendment is intended to implement Iowa Code chapters 99D and 99F.

The following amendment is proposed.

Rescind and reserve rule **491—1.6(99D,99F)**.

ARC 3485B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 39, “Filing Return and Payment of Tax,” Chapter 40, “Determination of Net Income,” Chapter 42, “Adjustments to Computed Tax,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 53, “Determination of Net Income,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

These amendments are proposed as a result of 2004 Iowa Acts, Senate File 2296.

Item 1 amends subrule 39.3(5) to eliminate the requirement that voter registration forms are to be inserted in income tax return booklets and income tax return instructions in odd-numbered tax years. The amendment reflects that the official electronic state of Iowa voter registration form and a link to the Iowa Secretary of State’s official Web site will be placed on the Department of Revenue’s Web site.

Item 2 amends rule 40.1(422) to reference new rule 40.65(422).

Item 3 amends rule 40.60(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets placed in service on or after May 5, 2003, but before January 1, 2005, does not apply for individual income tax.

Item 4 adopts new rule 40.65(422), which provides that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for assets placed in service on or after January 1, 2003, but before January 1, 2006, does not apply for individual income tax.

Item 5 amends subrule 42.2(11) to include federal revisions made in 2003 in the research activities credit for individuals.

Item 6 amends subrules 52.7(3) and 52.7(5) regarding the research activities credit for corporations and the research activities credit for increasing research activities in a quality job enterprise zone. The amendment shows that the Depart-

ment has adopted the 2003 federal revisions which might impact the calculation of the Iowa research activities credit.

Item 7 amends the implementation clause for rule 52.14(422) regarding the research activities credit for research activities conducted in an enterprise zone. The amendment to the implementation clause reflects that the research activities credit for research activities conducted in an enterprise zone are to be computed with changes in the federal research credit that occurred during 2003.

Item 8 amends rule 53.1(422) to reference new rule 53.23(422).

Item 9 amends rule 53.22(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets placed in service on or after May 5, 2003, but before January 1, 2005, does not apply for corporation income tax.

Item 10 adopts new rule 53.23(422), which provides that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for assets placed in service on or after January 1, 2003, but before January 1, 2006, does not apply for corporation income tax. To clarify this provision, examples are included.

Item 11 amends rule 59.23(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets placed in service on or after May 5, 2003, but before January 1, 2005, does not apply for franchise tax.

Item 12 adopts new rule 59.24(422), which provides that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for assets placed in service on or after January 1, 2003, but before January 1, 2006, does not apply for franchise tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 9, 2004, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 27, 2004. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 30, 2004.

REVENUE DEPARTMENT[701](cont'd)

These amendments are intended to implement Iowa Code sections 15.335, 15A.9, 421.17, 422.10 and 422.33 as amended by 2004 Iowa Acts, Senate File 2296.

The following amendments are proposed.

ITEM 1. Amend rule 701—39.3(422) as follows:

Amend subrule 39.3(5) as follows:

39.3(5) Voter's registration forms in income tax booklets and income tax return instructions. Effective for tax years beginning on or after January 1, 1989, income tax return booklets and income tax return instructions shall include two voter registration forms. The voter registration forms to be inserted into the income tax return instruction forms and booklets are to be designed by the voter registration commission. However, effective July 1, 1992, the voter registration forms are to be inserted in the income tax return booklets and income tax return instructions only for odd-numbered tax years. Thus, the voter registration forms will not be included in the income tax return booklets for the 1992 tax year but are to be included in the booklets for 1993.

Effective July 1, 2004, the requirement that voter registration forms be included in the income tax booklets and income tax instructions has been eliminated. The official Web site of the department includes the official electronic state of Iowa voter registration form and a link to the Iowa secretary of state's official Web site.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 48.21, 422.13, 422.21 and 422.22, ~~Iowa Code section 422.13 and 1994 Iowa Acts, Senate File 2223~~ Iowa Code sections 48A.24 and 421.17 as amended by 2004 Iowa Acts, Senate File 2296.

ITEM 2. Amend rule 701—40.1(422) as follows:

701—40.1(422) Net income defined. Net income for state individual income tax purposes shall mean federal adjusted gross income as properly computed under the Internal Revenue Code and shall include the adjustments in 40.2(422) to 40.10(422). The remaining provisions of this rule and 40.12(422) to 40.64 65(422) shall also be applicable in determining net income.

This rule is intended to implement Iowa Code section 422.7.

ITEM 3. Amend rule 701—40.60(422), introductory paragraph and the first and second unnumbered paragraphs, as follows:

701—40.60(422) Additional first-year depreciation allowance. For tax periods ending on or after September 10, 2001, *but beginning before May 5, 2003*, the additional first-year depreciation allowance ("bonus depreciation") of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa individual income tax. *For tax periods beginning on or after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, does not apply for Iowa individual income tax.* Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets placed in service after September 10, 2001, *but before January 1, 2005*, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets placed in service after September 10, 2001, *but before January 1, 2005*, can be calculated on Form IA 4562A.

ITEM 4. Amend 701—Chapter 40 by adopting the following **new** rule:

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, does not apply for Iowa individual income tax. The expensing allowance is limited to \$100,000 for federal tax purposes, but the expensing allowance is limited to \$25,000 for Iowa tax purposes. Taxpayers who claim an expensing allowance on their federal income tax return in excess of \$25,000 must limit their deduction on the Iowa return to \$25,000. The difference between the federal Section 179 expensing allowance on such property, if in excess of \$25,000, and the Iowa expensing allowance of \$25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code without regard to the bonus depreciation provision in Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expense allowance and related depreciation, along with the gain or loss on the sale of qualifying assets placed in service on or after January 1, 2003, but before January 1, 2006, can be calculated on Form IA 4562A.

See rule 701—53.23(422) for examples illustrating how this rule is applied.

This rule is intended to implement Iowa Code section 422.7.

ITEM 5. Amend rule 701—42.2(422) as follows:

Amend subrule **42.2(11)**, paragraph "b," first unnumbered paragraph, as follows:

For purposes of this subrule, the terms "base amount," "basic research payment," and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph "b" of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this subrule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2003 2004.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code *Supplement* section 15.333 as amended by 2003 Iowa Acts, House File 681, and Iowa Code sections section 422.10, as amended by 2004 Iowa Acts, Senate File 2296, and Iowa Code sections 422.11A, 422.12, and 422.12B.

REVENUE DEPARTMENT[701](cont'd)

ITEM 6. Amend rule 701—52.7(422) as follows:

Amend subrule **52.7(3)**, paragraph “c,” as follows:

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “b” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2003 2004.

Amend subrule **52.7(5)**, paragraph “c,” as follows:

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in subrule 52.7(3) of this rule, such amounts are limited to research activities conducted within the quality jobs enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2003 2004.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 423.33 as amended by 2003 2004 Iowa Acts, Senate File 442 2296.

ITEM 7. Amend the implementation clause for rule **701—52.14(422)** as follows:

This rule is intended to implement Iowa Code section 15A.9(8) as amended by 2004 Iowa Acts, Senate File 2296, Iowa Code Supplement section 15E.193 as amended by 2003 Iowa Acts, House File 576, and Iowa Code section 15E.186.

ITEM 8. Amend rule 701—53.1(422), introductory paragraph, as follows:

701—53.1(422) Computation of net income for corporations. Net income for state purposes shall mean federal taxable income, before deduction for net operating losses, as properly computed under the Internal Revenue Code, and shall include the adjustments in 53.2(422) to 53.13(422) and 53.17(422) to 53.22 23(422). The remaining provisions of this rule and 53.14(422) to 53.16(422) shall also be applicable in determining net income.

ITEM 9. Amend rule 701—53.22(422), introductory paragraph and first and second unnumbered paragraphs, as follows:

701—53.22(422) Additional first-year depreciation allowance. For tax periods ending on or after September 10, 2001, but beginning before May 5, 2003, the additional first-year depreciation allowance (“bonus depreciation”) of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa corporation income tax. For tax periods beginning on or after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets placed in service after September 10, 2001, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168

of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets placed in service after September 10, 2001, but before January 1, 2005, can be calculated on Form IA 4562A.

ITEM 10. Amend 701—Chapter 53 by adopting the following **new** rule:

701—53.23(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, does not apply for Iowa corporation income tax. The expensing allowance is limited to \$100,000 for federal tax purposes, but the expensing allowance is limited to \$25,000 for Iowa tax purposes. Taxpayers who claim an expensing allowance on their federal income tax return in excess of \$25,000 must limit their deduction on the Iowa return to \$25,000. The difference between the federal Section 179 expensing allowance on such property, if in excess of \$25,000, and the Iowa expensing allowance of \$25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code without regard to the bonus depreciation provision set forth in Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expense allowance and related depreciation, along with the gain or loss on the sale of qualifying assets placed in service on or after January 1, 2003, but before January 1, 2006, can be calculated on Form IA 4562A.

The following nonexclusive examples illustrate how this rule applies:

EXAMPLE 1: Taxpayer purchased a \$110,000 qualifying asset on January 1, 2003, which has a five-year life for depreciation purposes. Taxpayer was entitled to a \$100,000 Section 179 expensing allowance, a \$5,000 bonus depreciation deduction under Section 168(k) of the Internal Revenue Code, and an additional depreciation deduction under Section 168 of the Internal Revenue Code for a total deduction of \$106,000 for federal tax purposes. For Iowa purposes, taxpayer is entitled to a \$25,000 Section 179 expensing allowance and a \$17,000 depreciation deduction using MACRS, for a total Iowa deduction of \$42,000. Therefore, a \$64,000 (\$106,000 – \$42,000) increase to net income relating to this Section 179 and depreciation adjustment must be made on the Iowa return for 2003.

EXAMPLE 2: Assume the same facts as given in Example 1, and the qualifying asset was sold on December 31, 2005, for \$50,000. Taxpayer would have claimed \$108,560 of Section 179 and depreciation deductions on the federal returns for 2003-2005. This results in a basis for this asset of \$1,440

REVENUE DEPARTMENT[701](cont'd)

(\$110,000 – \$108,560), and a gain of \$48,560 (\$50,000 – \$1,440) on the federal return for 2005 on the sale of the asset.

Taxpayer would have claimed \$85,520 of Section 179 and depreciation deductions using the Section 179 limit of \$25,000 and the MACRS depreciation method on the Iowa returns for 2003-2005. This results in a basis for this asset of \$24,480 (\$110,000 – \$85,520), and a gain of \$25,520 (\$50,000 – \$24,480) on the Iowa return for 2005 on the sale of the assets. Therefore, a decrease to net income of \$23,040 (\$48,560 – \$25,520) relating to this gain adjustment must be made to the Iowa return for 2005.

This rule is intended to implement Iowa Code section 422.35.

ITEM 11. Amend rule 701—59.23(422), introductory paragraph and the first and second unnumbered paragraphs, as follows:

701—59.23(422) Additional first-year depreciation allowance. For tax periods ending on or after September 10, 2001, *but beginning before May 5, 2003*, the additional first-year depreciation allowance (“bonus depreciation”) of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa franchise tax. *For tax periods beginning on or after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, does not apply for Iowa franchise income tax.* Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets placed in service after September 10, 2001, *but before January 1, 2005*, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets placed in service after September 10, 2001, *but before January 1, 2005*, can be calculated on Form IA 4562A.

ITEM 12. Amend 701—Chapter 59 by adopting the following **new** rule:

701—59.24(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, does not apply for Iowa franchise tax. The expensing allowance is limited to \$100,000 for federal tax purposes, but the expensing allowance is limited to \$25,000 for Iowa tax purposes. Taxpayers who claim an expensing allowance on their federal income tax return in excess of \$25,000 must limit their deduction on the Iowa return to \$25,000. The difference between the federal Section 179 expensing allowance on such property, if in excess of \$25,000, and the Iowa expensing allowance of \$25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code with-

out regard to the bonus depreciation provision in Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expense allowance and related depreciation, along with the gain or loss on the sale of qualifying assets placed in service on or after January 1, 2003, but before January 1, 2006, can be calculated on Form IA 4562A.

See rule 701—53.23(422) for examples illustrating how this rule is applied.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

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REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 39, “Filing Return and Payment of Tax,” Iowa Administrative Code.

The proposed amendment updates, modernizes, and condenses the Department’s electronic filing rule, 701—39.13(422). The revised rule omits language which is no longer relevant to the Department’s practices and procedures which allow for electronic filing of tax returns. The revised rule also contains a much-needed subrule of definitions.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that the proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 9, 2004, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed amendment on or before July 27, 2004. Such written comments should be directed to the Policy Section, Compliance Division, Department of Reve-

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nue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by July 30, 2004.

This amendment is intended to implement Iowa Code sections 422.21 and 422.68.

The following amendment is proposed.

Rescind rule 701—39.13(422) and adopt the following **new** rule in lieu thereof:

701—39.13(422) Electronic filing of Iowa individual income tax returns. Electronic filing allows individuals who meet qualifications set out by the department to file their Iowa income tax returns electronically. All information is electronically transmitted. Nothing is submitted on paper, unless specifically requested by the department. A taxpayer's electronic Iowa return will include the same information as if the taxpayer had filed a paper Iowa return.

There is no statutory requirement that provides that individuals must file their Iowa income tax return electronically; therefore, taxpayers have the option to file by paper. The department may provide a variety of paperless filing options and will determine the criteria for each option on an annual basis. These options may include electronic filing, TeleFiling, or WebFiling.

39.13(1) Definitions. For the purpose of this rule, the following definitions apply, unless the context otherwise requires:

“Acknowledgment (ACK)” means a report generated by the department and sent to a transmitter indicating receipt of all transmissions.

“Declaration control number (DCN)” means a unique 14-digit number assigned by the ERO or transmitter to each electronic return.

“Department” means the Iowa department of revenue.

“Direct deposit” means an electronic transfer of a refund into a taxpayer's financial institution account.

“Electronic filing” means any paperless filing option approved by the department, including federal/state electronic filing (piggyback), federal/state electronic filing (state-only), TeleFile, and WebFile.

“Electronic return originator (ERO)” means an entity that originates the electronic submission of income tax returns.

“Federal/state electronic filing (piggyback)” means a process that allows the federal and state income tax returns to be simultaneously filed electronically.

“Federal/state electronic filing (state-only)” means a process that allows the Iowa income tax return to be filed electronically without filing the federal return, but an electronic copy of the federal information is still sent to Iowa. Current-year amended returns may also be filed using this process.

“IA 8453” means a taxpayer declaration form that authenticates the electronic IA 1040, authorizes its transmission, and designates payment method of any refund, including consent to direct deposit if requested.

“PIN signature alternative” means a process that allows filing a completely paperless tax return. The 5-digit PIN number is selected by the taxpayer and input by the ERO.

“Software developer” means an E-file provider that, according to IRS and Iowa specifications, develops software

for the purposes of formatting electronic portions of returns or transmitting the electronic portions of returns directly to the IRS, or both. A software developer may also sell its software.

“Stockpiling” means collecting returns from taxpayers or from other electronic filers and waiting more than three calendar days to transmit the returns to the department after receiving the information necessary for transmission.

“TeleFile” means a process that allows taxpayers to file Iowa income tax returns by telephone.

“Transmitter” means an E-file provider that transmits electronic portions of returns directly to the IRS.

“WebFile” means a process that allows taxpayers to file Iowa tax returns over the Internet at the department's Web site.

39.13(2) Completion of the electronic return. All amounts must be in whole dollars and must match the information on the electronic record for the return. The DCN on the state return must match that used on the taxpayer's federal return when filing piggyback. The department has adopted the PIN signature alternative as implemented by the IRS. If the ERO elects not to use this signature alternative, the IA 8453 must be completed, signed by the preparer, ERO, and taxpayer(s) and retained by the preparer. The PIN signature alternative is not an option for state-only returns.

If the ERO makes changes to the electronic return after the taxpayer(s) has signed the return but before it is transmitted, and the net income differs by more than \$50 or any of the other amounts on the IA 8453 differ by more than \$14, a new form must be completed and signed by the taxpayer(s) before the return is transmitted.

The ERO must provide the taxpayer with the following information: copy of the data transmitted, copies of the IA 8453, W-2s, 1099s, and any other schedules. The ERO should also provide a payment voucher and mailing address, if applicable.

The taxpayer and ERO shall retain all tax documentation for three years. The IA 8453 must be signed by the taxpayer(s), preparer and ERO unless the PIN signature alternative is used. The IA 8453 and accompanying schedules are to be furnished to the department only when specifically requested.

In situations in which the ERO ceases operation, the ERO is required to send the IA 8453 forms and all supporting documents to the department, if the income tax return is dated within three years from the due date or date filed. If the ERO is unable to retain the IA 8453 forms and all supporting documents, the ERO may request permission to deliver them to the department.

39.13(3) Direct deposit. Taxpayers may designate direct deposit of the Iowa refund on electronically filed returns. Taxpayers must provide proof of account ownership to the ERO. The department is not responsible for the misapplication of a direct deposit of a refund caused by error, negligence, or wrongdoing on the part of the taxpayer, electronic filer, financial institution or any agent of the above. The account designated to receive the direct deposit must be in the taxpayer's name. If the taxpayer's filing status on the return is “married filing a joint return” or “married filing separately on this combined return” form, the account may be in either spouse's name or both spouses' names. If the filing status is married filing separately, the account may be in the taxpayer's name or may be a joint account in both spouses' names. If the filing status is “married filing separate returns,” a direct deposit cannot be made if the account is only in the name of the other spouse.

REVENUE DEPARTMENT[701](cont'd)

The taxpayer's signature or taxpayers' signatures on the IA 8453 provide irrevocable approval of a direct deposit. Once the return has been transmitted, the direct deposit information may not be corrected. The department may, when processing procedures require, convert a request for direct deposit to a paper warrant. If refunds are sent to an incorrect bank account, the department will issue a paper refund check once the funds are returned by the financial institution.

39.13(4) Software approval. Software developers are required to submit a letter of intent, including the name, address, and telephone number of a contact person and a copy of IRS Form 8633 (Application to Participate in the Electronic Filing Program) in order to be considered for participation in the Iowa electronic filing program. The department will provide an application form, specifications, test package and procedures for companies wishing to develop software for electronic filing of Iowa returns. Specifications for the software developers are explained in IRS Publication 1346 and Iowa Publication 16-107, "Electronic Return File Specifications and Record Layouts." The developers will also be provided with test data and instructions so that developers may test their programs for processing electronic returns with the department. Software developers are required to pass transmission tests before the developers' software will be approved for electronic filing of Iowa income tax returns. The test period shall be defined annually by the department.

39.13(5) ERO approval. Only returns transmitted by EROs that are approved by the IRS will be accepted by the department. Once accepted by the IRS as an ERO for a specific tax year, the ERO is automatically accepted to file Iowa returns. There is no additional notification or approval process required by the department.

39.13(6) Suspension of an electronic filer from participation in the Iowa electronic filing program. The department may immediately suspend, without notice, an electronic filer from the Iowa electronic filing program. However, in most cases, a suspension from the Iowa electronic filing program is effective as of the date of the letter informing the electronic filer of the suspension. Before suspending an electronic filer, the department may issue a warning letter which describes specific corrective action required because of deviations from this rule.

If an electronic filer is either denied participation in the federal electronic filing program or is suspended from the federal program, the electronic filer shall automatically be prohibited from participation in the Iowa electronic filing program.

An electronic filer who is eligible to participate in the federal electronic filing program may be suspended from the Iowa electronic filing program if the electronic filer has allowed any of the following conditions to occur. This list is not all-inclusive.

- a. Deterioration in the format of transmissions of individual Iowa returns;
- b. Unacceptable cumulative error or rejection rate or failure to correct errors in transmission of Iowa returns;
- c. Untimely received, illegible, incomplete, missing, or unapproved substitute IA 8453 forms;
- d. Stockpiling returns at any time while participating in the Iowa electronic filing program;
- e. Failure on the part of the transmitter to retrieve an acknowledgment file within two working days of transmission by the department;
- f. Failure on the part of the transmitter to initiate the communication of acknowledgment files to the electronic return originator (ERO) within two working days of transmission by the department;

- g. Significant complaints about the electronic filer;
- h. Failure on the part of the electronic filer to cooperate with the department's efforts to monitor electronic filers, investigate electronic filing abuse, and investigate the possible filing of fraudulent returns;

- i. Submitting the electronic portion of a return with information which is not identical to information on the IA 8453;

- j. Transmitting the Iowa return with software that was not approved for use in the Iowa electronic filing program;

- k. Failure on the part of the electronic filer to provide W-2s, 1099s, or out-of-state tax returns when requested.

39.13(7) Administrative procedure for denial of an electronic filer's participation in the Iowa electronic filing program or for suspension of an electronic filer from the Iowa electronic filing program. In a situation in which an electronic filer has requested participation in the Iowa electronic filing program but there is a reason to deny the electronic filer's participation, the department will send the electronic filer a letter to advise that the electronic filer will be denied entry into the program. In another situation in which an electronic filer is a participant in the Iowa electronic filing program but the electronic filer is to be suspended from the program for any conditions described in subrule 39.13(6), the department will send the electronic filer a letter to notify the filer about the electronic filer's suspension from the program.

In cases in which the electronic filer either disagrees with the denial of participation letter or the suspension from participation letter, the electronic filer must file a written protest to the department within 60 days of the date of the denial letter or the suspension letter. The written protest must be filed pursuant to rule 701—7.41(17A). During the administrative review process, the denial of an electronic filer's participation in or the suspension of an electronic filer from the Iowa electronic filing program will remain in effect.

This rule is intended to implement Iowa Code sections 422.21 and 422.68.

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UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.20, the Utilities Board (Board) gives notice that on June 21, 2004, the Board issued an order in Docket No. RMU-04-5, In re: Revisions to Level Payment Plan Rules [199 IAC 19.4(11) and 20.4(12)], "Order Commencing Rule Making." The proposed amendments are the result of an inquiry into the Board's level payment plan rules; see Docket No. NOI-03-3, In re: Review of Level Payment Plan Rules. The Board proposes to rescind the current level payment plan rules found in paragraphs 19.4(11)"e" and 20.4(12)"e" and adopt revised level payment plan rules in new paragraphs 19.4(11)"e" and 20.4(12)"e." The Board is also proposing to adopt new paragraphs 19.4(11)"f" and 20.4(12)"f." The order containing the background and support for this rule mak-

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ing can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed rule making. The statement must be filed on or before July 27, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). Utilities are requested to provide an estimate of any additional costs they believe will be generated by the changes in the level payment plan rules. All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive oral comments on the proposed amendments will be held at 9 a.m. on September 1, 2004, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.20.

The following amendments are proposed.

ITEM 1. Rescind paragraph **19.4(11)"e"** and adopt the following **new** paragraph in lieu thereof:

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of a customer's bills and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination or withdrawal from the plan at any time. If the customer's account is in arrears at the time of termination or withdrawal, the balance shall be due and payable at the time of termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated or withdrawn from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 19.4(11)"e"(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level pay-

ment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than 30 days prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan shall terminate after 30 days of delinquency.

ITEM 2. Adopt **new** paragraph **19.4(11)"f"** as follows:

f. A utility shall provide that a delinquency date for payment may be changed upon written request by a customer to accommodate the date the customer receives income or other similar circumstances. The utility may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.

ITEM 3. Rescind paragraph **20.4(12)"e"** and adopt the following **new** paragraph in lieu thereof:

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3000 kWh per month. A level payment plan should be designed to limit the volatility of a customer's bills and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination or withdrawal from the plan at any time. If the customer's account is in arrears at the time of termination or withdrawal, the balance shall be due and payable at the time of termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated or withdrawn from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 20.4(12)"e"(4). The computation method used by the utility must be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and must be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly lev-

UTILITIES DIVISION[199](cont'd)

el payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than 30 days prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in

payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan shall terminate after 30 days of delinquency.

ITEM 4. Adopt new paragraph **20.4(12)“f”** as follows:

f. A utility shall provide that a delinquency date for payment may be changed upon written request by a customer to accommodate the date the customer receives income or other similar circumstances. The utility may provide that the delinquency date may not be changed to a date later than 30 days after the date of preparation of the previous bill.

ARC 3483B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code Supplement section 8A.104, the Department of Administrative Services hereby amends Chapter 101, "Parking," Iowa Administrative Code.

The purpose of this amendment is to correct an error in the initial publication of this chapter on parking on the Capitol complex to clarify that the effective date of the late fee for parking fines is for all outstanding fines that are delinquent on June 30, 2004, or fines that become delinquent after June 30, 2004.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for a rule change to clarify the effective date of a provision of this chapter, which is being implemented on June 30, 2004, following public notice and participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and this amendment should be made effective on June 30, 2004, as it confers a benefit to the public by strengthening the Department's ability to collect parking fines currently delinquent and by serving as a deterrent to employees parking illegally, to help keep visitor parking areas free for visitors to the Capitol complex.

This amendment became effective June 30, 2004.

This amendment is intended to implement Iowa Code Supplement sections 8A.322 and 8A.323.

The following amendment is adopted.

Amend subrule 101.12(2) as follows:

101.12(2) The parking fine shall be increased by \$10 for all outstanding delinquent violations if the fine is not or has not been paid within 30 days of the date upon which the violation occurred.

[Filed Emergency 6/18/04, effective 6/30/04]

[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3466B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 234.6(7) and 239B.4(4) and 2004 Iowa Acts, House File 2350, section 12, the Department of Human Services amends Chapter 9, "Public Records and Fair Information Practices," Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," and Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

These amendments implement provisions of 2004 Iowa Acts, House File 2350, which was signed by the Governor on April 7, 2004, by:

- Rescinding truancy requirements in the Family Investment Program. These requirements, providing that parents had to sign a release for school attendance information as a condition of eligibility and reducing the cash grant by 25 percent if truancy was not resolved after a meeting coordinated by the Department, have been suspended since July 2002. These requirements have proved to be administratively burdensome and of limited effectiveness. The statutory basis for these requirements has been rescinded effective July 1, 2004, by 2004 Iowa Acts, House File 2350, sections 5 through 11. Family Investment Program recipients continue to be subject to the same school attendance requirements and penalties for truancy as all other Iowa families.

- Allowing the disregard of one motor vehicle in the determination of Family Investment Program eligibility, as specified by Iowa Code section 239B.7, subsection 8, as amended by 2004 Iowa Acts, House File 2350, section 1, without regard to the vehicle's value. Possession of reliable transportation is a significant factor in a family's ability to be self-sufficient. Iowa has historically had one of the lowest motor vehicle disregards in the country. (This amendment also states the current value of the partial disregard used if an adult or working teenager in the household has another vehicle. This value increases annually based on the consumer price index for used vehicles.)

- Changing Food Assistance resource policy to match the Family Investment Program policy of disregarding the value of one motor vehicle per household, as allowed by Public Law 106-387, Section 847. Currently, vehicles can be excluded for reasons such as use to produce income or to transport a physically disabled person, or if sale of the vehicle would produce \$1500 or less. If the vehicle cannot be excluded by these tests, the Department must ascertain the value of the vehicle through industry publications or appraisal and apply a disregard. These methods will continue to be used on other vehicles the household owns, but most Food Assistance households have only one vehicle.

These amendments do not provide for waivers in specified situations because they increase benefits for or remove restrictions on affected households.

The Department of Human Services finds that notice and public participation on FIP truancy and vehicle policy changes are unnecessary because these policies are set in statute. Notice and public participation on Food Assistance vehicle policies are contrary to the public interest because having simplified, more closely aligned policies for FIP and Food Assistance eases the burden on Department customers and brings additional resources into the state, and any delay would needlessly postpone the benefits. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit or remove a restriction on clients. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments should be waived.

The Council on Human Services adopted these amendments on June 9, 2004.

These amendments are intended to implement Iowa Code sections 239B.7 and 239B.2A as amended by 2004 Iowa Acts, House File 2350, sections 1 and 11, respectively.

These amendments became effective on July 1, 2004.

These amendments are also published herein under Notice of Intended Action as **ARC 3456B** to allow for public comment.

The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Rescind and reserve subrule **9.10(20)**.

ITEM 2. Amend subrule **40.27(5)** by rescinding and reserving paragraph “i.”

ITEM 3. Rescind and reserve subrule **41.25(8)**.

ITEM 4. Amend paragraph **41.26(1)“d”** as follows:

d. *Motor vehicles.*

(1) *One motor vehicle without regard to its value.*

(2) An equity not to exceed a value of \$3000 \$4115 in one motor vehicle for each adult and working teenage child whose resources must be considered as described in 41.26(2). The disregard shall be allowed when the working teenager is temporarily absent from work. The equity value in excess of \$3000 \$4115 of any vehicle shall be counted toward the resource ~~limitation~~ *limit* in 41.26(1)“e.” When a motor vehicle(s) is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle(s).

~~Beginning July 1, 1994, and continuing in succeeding fiscal years, the~~ *The department shall annually increase the motor vehicle equity value to be disregarded shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.*

ITEM 5. Amend paragraph **41.27(9)“d”** as follows:

d. The third digit to the right of the decimal point in any computation of income and hours of employment shall be dropped. This includes the calculation of the amount of a ~~tranny sanction as defined in paragraph 41.25(8)“g”~~ or a child support sanction as defined in paragraph 41.22(6)“f.”

ITEM 6. Amend rule 441—65.30(234) by adopting the following new subrule:

65.30(6) Motor vehicles. One motor vehicle per household shall be excluded without regard to its value. The value of remaining motor vehicles shall be determined using federal regulations at 7 CFR 273.8, as amended to April 29, 2003.

[Filed Emergency 6/14/04, effective 7/1/04]

[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3465B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments publish the Department’s annual updates of:

- The statewide average cost of nursing facility services to a private-pay resident. This figure is determined by a survey of facilities and is used to determine the period of ineligibility when a person transfers assets for less than market value. The monthly average cost has increased from \$3,575.34 to \$3,597.84. Since the amount transferred is divided by this cost to determine the number of months of ineligibility for nursing facility care and other long-term care services, the resulting periods of ineligibility will be slightly shorter.

- The statewide average charges or maximum Medicaid rate for various levels of institutional care. Iowa Code section 633.707 requires the Department to calculate and publish these figures, which are used to determine the disposition of the income of a medical assistance income (Miller-type) trust. Miller-type trusts allow people whose income is above Medicaid limits but is less than the cost of care in a medical institution to attain eligibility by depositing their income in a trust. When a person’s total income is less than the statewide average charge for a person’s level of care, the trust releases income to the beneficiary only up to the limit for Medicaid eligibility (300 percent of the monthly SSI benefit, or \$1,692).

2004 Iowa Acts, House File 2378, changed the categories for which average charges are reported by eliminating figures for hospital-based and non-hospital-based Medicare-certified skilled nursing facilities as separate categories. Instead, if a person is receiving specialized care, such as Alzheimer’s care or care for neurological disorders, the average cost of the specialized care will be used as the income limit for determining the disposition of the trust income.

Changes in the statewide average charge figures for state fiscal year 2005 are as follows:

- Nursing facility care: an increase to \$3,246 per month (previously \$3,180).
- ICF/MR care: an increase to \$10,752 per month (previously \$10,734).
- Mental health institute care: an increase to \$13,299 per month (previously \$9,991).

The figure for psychiatric medical institutions for children remains unchanged at \$4,477 per month. An increase in the average charge allows more people to qualify for Medicaid.

These amendments do not provide for waivers in specified situations because everyone should be subject to the same conditions in determining Medicaid eligibility as a matter of fairness, and these changes provide a benefit to applicants and recipients.

The Council on Human Services adopted these amendments June 9, 2004.

The Department finds that notice and public participation are unnecessary because the amendments simply update existing rules pursuant to established policy based on mathematical calculations and implement changes made by legislation. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit by raising eligibility thresholds and limiting periods of ineligibility. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 3455B** to allow for public comment.

These amendments are intended to implement Iowa Code section 249A.4 and sections 633.707 and 633.709 as amended by 2004 Iowa Acts, House File 2378.

These amendments became effective July 1, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) Period of ineligibility. The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual’s spouse) on or after the look-back date specified in 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a

HUMAN SERVICES DEPARTMENT[441](cont'd)

private-pay resident for nursing facilities and update the cost annually. For the period from July 1, 2003 2004, through June 30, 2004 2005, this average statewide cost shall be \$3,575.34 \$3,597.84 per month or \$117.61 \$118.35 per day.

ITEM 2. Amend paragraph 75.24(3)“b” as follows:

Amend the first unnumbered paragraph and subparagraph (1) as follows:

For disposition of trust amounts pursuant to Iowa Code sections 633.707 to 633.711, the average statewide charges and Medicaid rates for the period from July 1, 2003 2004, to June 30, 2004 2005, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is \$3,180 \$3,246 per month.

Rescind and reserve subparagraphs (2) and (3).

Amend subparagraphs (4) and (5) as follows:

(4) The maximum statewide Medicaid rate for a resident of an intermediate care facility for the mentally retarded is \$10,734 \$10,752 per month.

(5) The average statewide charge to a resident of a mental health institute is \$9,991 \$13,299 per month.

[Filed Emergency 6/14/04, effective 7/1/04]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3464B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4 and 2003 Iowa Acts, chapter 118, section 4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration, and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments add day habilitation as a covered service under the Medicaid home- and community-based services waiver for persons with mental retardation. In 2003 Iowa Acts, chapter 118, section 1, the Iowa General Assembly directed the Department to amend the mental retardation waiver to include adult day care, prevocational services, and transportation services, which were already offered under other waivers, and day habilitation, a new service. Adult day care, prevocational services, and transportation were added to the waiver effective July 1, 2003. Day habilitation services are included in the waiver renewal request submitted for state fiscal year 2005.

Day habilitation services provide another choice for consumers in the array of services that can be accessed under the waiver. Day habilitation may be a more appropriate choice for some consumers who are now receiving adult day care or prevocational services under the waiver. Day habilitation services are intended to provide teaching and coaching in “life skills” that a consumer has not yet mastered. Services provide more than protective supervision but are not targeted at developing vocational skills. The overall cost limit for a consumer's total waiver services remains the same.

These amendments do not provide for waivers in specified situations because they provide a benefit to consumers by expanding the array of services available. Individuals may request a waiver under the Department's general rule at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on April 28, 2004, as **ARC 3327B**. The Department received four comments supporting the amendments, but requesting a provision allowing providers currently accredited for other services to be qualified as waiver providers until their accreditation is renewed, in order to avoid the expense of a new survey. The Department has made the following changes to subrule 77.37(27):

- Added a new paragraph “b” as follows:

- “b. Agencies accredited by the Commission on Accreditation of Rehabilitation Facilities to provide other services that began providing services that qualify as day habilitation under 441—subrule 78.41(14) since their last accreditation survey. The agency may provide day habilitation services until the current accreditation expires. When the current accreditation expires, the agency must qualify under paragraph ‘a’ or ‘d.’”

- Relettered proposed paragraphs “b” through “d” as “c” through “e.”

- Amended relettered paragraph “c” to limit the provisions of paragraph “c” to agencies not currently accredited and to clarify that the 12 months are measured from the date of the accreditation application, not from the application for certification as a waiver provider. The amended paragraph reads as follows:

- “c. Agencies not accredited by the Commission on Accreditation of Rehabilitation Facilities that have applied to the Commission within the last 12 months for accreditation to provide services that qualify as day habilitation under 441—subrule 78.41(14). An agency that has not received accreditation within 12 months after application to the Commission is no longer a qualified provider.”

- Amended relettered paragraph “e” to clarify that the 12 months are measured from the date of the accreditation application, not from the application for certification as a waiver provider. The amended paragraph reads as follows:

- “e. Agencies that have applied to the Council on Quality and Leadership for accreditation within the last 12 months. An agency that has not received accreditation within 12 months after application to the Council is no longer a qualified provider.”

The Council on Human Services adopted these amendments on June 9, 2004.

The Department finds that these amendments confer a benefit on waiver providers and consumers by enhancing the array of appropriate services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date is waived.

These amendments are intended to implement Iowa Code Supplement section 249A.12, subsection 6(b).

These amendments became effective on July 1, 2004.

The following amendments are adopted.

ITEM 1. Amend rule 441—77.37(249A) by adding the following **new** subrule:

77.37(27) Day habilitation providers. Day habilitation services may be provided by:

- a. Agencies accredited by the Commission on Accreditation of Rehabilitation Facilities to provide services that qualify as day habilitation under 441—subrule 78.41(14).

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Agencies accredited by the Commission on Accreditation of Rehabilitation Facilities to provide other services that began providing services that qualify as day habilitation under 441—subrule 78.41(14) since their last accreditation survey. The agency may provide day habilitation services until the current accreditation expires. When the current accreditation expires, the agency must qualify under paragraph “a” or “d.”

c. Agencies not accredited by the Commission on Accreditation of Rehabilitation Facilities that have applied to the Commission within the last 12 months for accreditation to provide services that qualify as day habilitation under 441—subrule 78.41(14). An agency that has not received accreditation within 12 months after application to the Commission is no longer a qualified provider.

d. Agencies accredited by the Council on Quality and Leadership.

e. Agencies that have applied to the Council on Quality and Leadership for accreditation within the last 12 months. An agency that has not received accreditation within 12 months after application to the Council is no longer a qualified provider.

ITEM 2. Amend rule 441—78.41(249A) by adding the following **new** subrule:

78.41(14) Day habilitation services.

a. Scope. Day habilitation services are services that assist or support the consumer in developing or maintaining life skills and community integration. Services must enable or enhance the consumer’s intellectual functioning, physical and emotional health and development, language and communication development, cognitive functioning, socialization and community integration, functional skill development, behavior management, responsibility and self-direction, daily living activities, self-advocacy skills, or mobility.

b. Family training option. Day habilitation services may include training families in treatment and support methodologies or in the care and use of equipment. Family training may be provided in the consumer’s home. The unit of service is an hour. The units of services payable are limited to a maximum of 10 hours per month.

c. Unit of service. Except as provided in paragraph “b,” the unit of service may be an hour, a half-day (1 to 4 hours), or a full day (4 to 8 hours).

d. Exclusions.

(1) Services shall not be provided in the consumer’s home, except as provided in paragraph “b.” For this purpose, services provided in a residential care facility where the consumer lives are not considered to be provided in the consumer’s home.

(2) Services shall not include vocational or prevocational services and shall not involve paid work.

(3) Services shall not duplicate or replace education or related services defined in Public Law 94-142, the Education of the Handicapped Act.

(4) Services shall not be provided simultaneously with other Medicaid-funded services.

ITEM 3. Amend subrule **79.1(2)**, provider category “HCBS MR waiver service providers,” by adopting **new** numbered paragraph “14,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
14. Day habilitation	Fee schedule	County contract rate or, in the absence of a contract rate, \$12.33 per hour, \$30 per half-day, or \$60 per day

ITEM 4. Amend subrule **83.61(1)** by adding the following **new** paragraph “f”:

1. For day habilitation, be 16 years of age or older.

ITEM 5. Amend rule 441—83.66(249A) as follows:

441—83.66(249A) Allowable services. Services allowable under the HCBS MR waiver are supported community living, respite, personal emergency response system, nursing, home health aide, home and vehicle modifications, supported employment, consumer-directed attendant care services, interim medical monitoring and treatment services, transportation, adult day care, *day habilitation*, and prevocational services as set forth in rule 441—78.41(249A).

[Filed Emergency After Notice 6/14/04, effective 7/1/04]

[Published 7/7/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3462B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments update rules for Medicaid reimbursement methodology for inpatient and outpatient hospital care related to payments for direct and indirect medical education and disproportionate share in state fiscal year 2005. The amounts allocated for these purposes remain the same as in state fiscal year 2004.

The amendments also make several other technical changes to Chapter 79, including:

- Clarifying that Medicaid fee schedules are now available from the Department’s Web site instead of from the Medicaid fiscal agent.
- Replacing references to “Consultec” with references to “ACS State Healthcare” or “the fiscal agent.”
- Correcting the pharmacy dispensing fee in subrule 79.1(2) to match the current figure in paragraph 79.1(8)“g.”
- Updating the version number of Grouper software used in calculating outpatient reimbursement through ambulatory patient groups.

These amendments do not provide for waivers in specified situations because the changes are technical in nature.

The Council on Human Services adopted these amendments June 9, 2004.

The Department finds that notice and public participation are unnecessary because the amendments are technical in nature and not subject to the Department’s discretion and impracticable in that there is not time to allow for public comment before the beginning of state fiscal year 2005. There-

HUMAN SERVICES DEPARTMENT[441](cont'd)

fore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department also finds that these amendments confer a benefit to the public by providing current information and eliminating obsolete or confusing terminology. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments should be waived.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective July 1, 2004.

These amendments are also published herein under Notice of Intended Action as **ARC 3453B** to allow for public comment.

The following amendments are adopted.

ITEM 1. Amend paragraph **79.1(1)“c,”** third unnumbered paragraph, as follows:

~~Copies of fee~~ *Fee* schedules in effect for the providers covered by fee schedules can be obtained by contacting from the department's fiscal agent *Web site* at the following address: ~~Consultec, Inc., P.O. Box 14422, Des Moines, Iowa 50306-3422;~~ <http://www.dhs.state.ia.us/Medicaid/MedicaidFeeSched.asp>.

ITEM 2. Amend subrule **79.1(2)**, provider category “prescribed drugs,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Prescribed drugs	See 79.1(8)	\$5.17 \$4.26 dispensing fee. (See 79.1(8)“a” and “e”)

ITEM 3. Amend subrule **79.1(5)** as follows:

Amend paragraph “**r**,” subparagraph (1), as follows:

(1) Certification procedure. All hospital special units and physical rehabilitation hospitals must be certified by the Medicaid fiscal agent to qualify for Medicaid reimbursement as a special unit or physical rehabilitation hospital. Hospitals shall submit requests for certification to ACS ~~Consultee State Healthcare~~, Attention: Provider Enrollment, P.O. Box 14422, Des Moines, Iowa 50306-3422, with documentation that the certification requirements are met. The Medicaid fiscal agent will notify the facility of any additional documentation needed after review of the submitted documentation.

Amend paragraph “**y**,” subparagraphs (2), (5), and (8), as follows:

(2) Allocation to fund for direct medical education. Except as reduced pursuant to subparagraph 79.1(5)“y”(3), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to inpatient services for July 1, 2003 2004, through June 30, 2004 2005, is \$8,065,366.

(5) Allocation to fund for indirect medical education. Except as reduced pursuant to subparagraph 79.1(5)“y”(6), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for indirect medical education for July 1, 2003 2004, through June 30, 2004 2005, is \$14,161,431.

(8) Allocation to fund for disproportionate share. The total amount of funding that is allocated to the graduate medical education and disproportionate share fund for disproportionate share payments for July 1, 2003 2004, through June 30, 2004 2005, is \$6,769,557.

ITEM 4. Amend subrule **79.1(16)** as follows:

Amend paragraph “**a**,” definition of “grouper,” as follows:

“Grouper” shall mean the Version 2 4.1 Grouper software developed by Minnesota Mining and Manufacturing (3M) for the Health Care Financing Administration, with modifications for payable APGs made to support Medicaid program policy in Iowa. (See paragraph “i.”)

Amend paragraph “**i**,” fourth unnumbered paragraph, as follows:

Claims for the following APGs, as defined in Version 2 4.1 of the Grouper software, will not be accepted by Iowa Medicaid for payment: APG 005—Nail Procedures, APG 171—Artificial Fertilization, APG 212—Fitting of Contact Lenses, APG 386—Biofeedback and hypnotherapy, and APG 382—Provision of vision aids.

Amend paragraph “**v**,” subparagraph (2), as follows:

(2) Allocation to fund for direct medical education. Except as reduced pursuant to subparagraph 79.1(16)“v”(3), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to outpatient services for July 1, 2003 2004, through June 30, 2004 2005, is \$2,727,424.

ITEM 5. Amend subrule 79.14(1) as follows:

Amend the introductory paragraph as follows:

79.14(1) Application forms. All providers of medical services interested in enrolling as Medicaid providers shall begin the enrollment process by contacting the fiscal agent at Provider Enrollment, ~~CONSULTEC, Inc.~~ *ACS State Healthcare*, P.O. Box 14422, Des Moines, Iowa 50306-3422, to request an application, with the following exceptions: nursing facility providers shall complete the process set forth in rule 441—81.13(249A) and intermediate care facilities for the mentally retarded shall complete the process set forth in rule 441—82.3(249A). ~~CONSULTEC~~ *The fiscal agent* shall send the provider the appropriate application forms for completion as set forth below.

Amend paragraph “**e**” as follows:

e. All HCBS waiver providers shall submit Form 470-2917, Medicaid HCBS Provider Application, at least 90 days before the planned service implementation date. ~~Consultee~~ *The fiscal agent* shall forward the application to the department for processing.

[Filed Emergency 6/14/04, effective 7/1/04]

[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3463B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2004 Iowa Acts, Senate File 2298, section 138, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

These amendments implement changes in Medicaid reimbursement for nursing facility services as directed by 2004 Iowa Acts, Senate File 2298. This legislation mandates the following changes to the methodology for the calculation of nursing facility payments in the modified price-based case-mix reimbursement system:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Adjusting allowable cost calculations by applying the most recently published HCFA/SNF index.
 - Reducing the excess payment allowance calculations.
- These amendments do not provide for waivers in specified situations because they benefit all affected providers.

The Council on Human Services adopted these amendments on June 9, 2004.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2004 Iowa Acts, Senate File 2298, section 138, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section

17A.5(2)“b”(1), that the normal effective date of these amendments should be waived, as authorized by 2004 Iowa Acts, Senate File 2298, section 138.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, sections 138 and 154.

These amendments became effective July 1, 2004.

These amendments are also published herein under Notice of Intended Action as **ARC 3454B** to allow for public comment.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(2)**, provider category “nursing facilities,” numbered paragraphs “1” and “2,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
1. Nursing facility care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A). The percentage of the median used to calculate the direct care excess payment allowance ceiling under 441—81.6(16)“d”(1)“1” and (2)“1” is 95% of the patient-day-weighted median. The percentage of the difference used to calculate the direct care excess payment allowance is 100% 50%. The percentage of the median used to calculate the direct care excess payment allowance limit is 10% of the patient-day-weighted median. The percentage of the median used to calculate the non-direct care excess payment allowance ceiling under 441—81.6(16)“d”(1)“2” and (2)“2” is 96% of the patient-day-weighted median. The percentage of the difference used to calculate the non-direct care excess payment allowance limit is 65% 32.5%. The percentage of the median used to calculate the non-direct care excess payment allowance limit is 8% of the patient-day-weighted median.	See 441—subrules 81.6(4) and 81.6(14) and paragraph 81.6(16)“f.” The direct care rate component limit under 441—81.6(16)“f”(1) and (2) is 120% of the patient-day-weighted median. The non-direct care rate component limit under 441—81.6(16)“f”(1) and (2) is 110% of the patient-day-weighted median.
2. Hospital-based, Medicare-certified nursing care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A). The percentage of the median used to calculate the direct care excess payment allowance ceiling under 441—81.6(16)“d”(3)“1” is 95% of the patient-day-weighted median. The percentage of the difference used to calculate the direct care excess payment allowance is 100% 50%. The percentage of the median used to calculate the direct care excess payment allowance limit is 10% of the patient-day-weighted median. The percentage of the median used to calculate the non-direct care excess payment allowance ceiling under 441—81.6(16)“d”(3)“2” is 96% of the patient-day-weighted median. The percentage of the difference used to calculate the non-direct care excess payment allowance limit is 65% 32.5%. The percentage of the median used to calculate the non-direct care excess payment allowance limit is 8% of the patient-day-weighted median.	See 441—subrules 81.6(4) and 81.6(14), and paragraph 81.6(16)“f.” The direct care rate component limit under 441—81.6(16)“f”(3) is 120% of the patient-day-weighted median. The non-direct care rate component limit under 441—81.6(16)“f”(3) is 110% of the patient-day-weighted median.

ITEM 2. Amend subrule **81.6(16)** as follows:

Amend paragraph “a,” introductory paragraph, as follows:

a. Calculation of per diem cost. For purposes of calculating the non-state-owned nursing facility Medicaid reimbursement rate and the Medicare-certified hospital-based nursing facility Medicaid reimbursement rate, the costs shall be divided into two components, the direct care component and non-direct care component as defined in rule 441—81.1(249A). Each nursing facility’s per diem allowable direct care and non-direct care cost shall be established. Effective July 1, 2001, and every second year thereafter, the per diem allowable cost shall be arrived at by dividing total reported allowable costs by total inpatient days during the reporting period. *Effective On July 1, 2001, July 1, 2003, July 1, 2004, July 1, 2005, and every second year thereafter, total reported allowable costs shall be adjusted using the inflation factor specified*

in subrule 81.6(18) from the midpoint of the cost report period to the beginning of the state fiscal year rate period.

Amend paragraph “c” by adopting the following **new** subparagraph (3):

(3) For the fiscal period beginning July 1, 2004, and ending June 30, 2005, the non-state-owned and Medicare-certified hospital-based nursing facility direct care and the non-direct care patient-day-weighted medians calculated July 1, 2003, shall be inflated to July 1, 2004, using the inflation factor specified in subrule 81.6(18).

[Filed Emergency 6/14/04, effective 7/1/04]

[Published 7/7/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3461B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments affect Medicaid reimbursement for hospital care. The amendments provide for a payment to be added on to the blended base amount for Iowa state-owned hospitals with more than 500 beds to adjust for the high cost incurred for providing services to medical assistance patients. This was a legislative directive in 2004 Iowa Acts, Senate File 2298, division V, section 116, subsection 11.

These amendments do not provide for waivers in specified situations because they provide a benefit to those affected.

The Council on Human Services adopted these amendments on June 9, 2004.

The Department of Human Services finds that notice and public participation on these amendments are unnecessary and impracticable because they implement a legislative directive that takes effect on July 1, 2004. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments shall be waived.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, division V, section 116, subsection 11.

These amendments became effective on July 1, 2004.

These amendments are also published herein under Notice of Intended Action as **ARC 3452B** to allow for public comment.

The following amendments are adopted.

ITEM 1. Amend paragraph **79.1(5)"a"** as follows:

Amend the definitions of "blended base amount" and "final payment rate" as follows:

"Blended base amount" shall mean the case-mix-adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix-adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which payments for inflation, and capital costs, *and the high-cost adjustment* are added to form a final payment rate. The costs of hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report shall not be used in determining the statewide average case-mix-adjusted operating cost per Medicaid discharge.

For purposes of calculating the disproportionate share rate only, a separate blended base amount shall be determined for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using only the case-mix-adjusted operating cost per discharge associated with treating Medicaid patients in the distinct area or areas of the hospital where services are provided predominantly to children under 18 years of age.

"Final payment rate" shall mean the aggregate sum of the ~~two three~~ components (the blended base amount, and capital costs, *and the high-cost adjustment*) that, when added together, form the final dollar value used to calculate each provider's reimbursement amount when multiplied by the DRG weight. These dollar values are displayed on the rate table listing.

Adopt the following **new** definition in alphabetical order:

"High-cost adjustment" shall mean an add-on to the blended base amount (considered part of the blended base amount), which shall compensate for the high cost incurred for providing services to medical assistance patients.

ITEM 2. Amend paragraph **79.1(5)"b,"** introductory paragraph, as follows:

b. Determination of final payment rate amount. The hospital DRG final payment amount reflects the sum of inflation adjustments to the blended base amount plus ~~an add-on~~ *add-ons* for capital costs *and high-cost adjustments*. This blended base amount plus the ~~add-on~~ *add-ons* is multiplied by the set of Iowa-specific DRG weights to establish a rate schedule for each hospital. Federal DRG definitions are adopted except as provided below:

ITEM 3. Amend paragraph **79.1(5)"d,"** subparagraph (1) and subparagraph (2), introductory paragraph, as follows:

(1) Calculation of statewide average case-mix-adjusted cost per discharge. The statewide average cost per discharge is calculated by subtracting from the statewide total Iowa Medicaid inpatient expenditures the total calculated dollar expenditures based on hospitals' base-year cost reports for capital costs, medical education costs, and calculation of actual payments that will be made for additional transfers, outliers, physical rehabilitation services, and indirect medical education. *For purposes of this subparagraph, the calculation of payments that will be made for additional transfers and outliers shall exclude that portion of the payment that represents high-cost adjustments.* Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average cost per discharge. The remaining amount (which has been case-mix adjusted and adjusted to reflect inflation if applicable) is divided by the statewide total number of Iowa Medicaid discharges reported in the Medicaid management information system (MMIS) less an actual number of nonfull DRG transfers and short stay outliers.

(2) Calculation of hospital-specific case-mix-adjusted average cost per discharge. The hospital-specific case-mix-adjusted average cost per discharge is calculated by subtracting from the lesser of total Iowa Medicaid costs, or covered reasonable charges as determined by the hospital's base-year cost report or MMIS claims system, the actual dollar expenditures for capital costs, direct medical education costs, the payments that will be made for nonfull DRG transfers, outliers, and physical rehabilitation services if included. *For purposes of this subparagraph, the calculation of payments that will be made for nonfull DRG transfers and outliers shall exclude that portion of the payment that represents high-cost adjustments.* The remaining amount is case-mix adjusted, multiplied by inflation factors, and divided by the total number of Iowa Medicaid discharges from the MMIS claims system for that hospital during the applicable base year, less the nonfull DRG transfers and short stay outliers.

ITEM 4. Amend paragraph **79.1(5)"e"** as follows:

e. ~~Add-on~~ *Add-ons* to the base amount.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) One payment for capital costs is added on to the blended base amount.

Capital costs are included in the rate table listing and added to the blended base amount ~~prior to setting~~ *before* the final payment rate schedule *is set*. This add-on reflects a 50/50 blend of the statewide average case-mix-adjusted capital cost per discharge and the case-mix-adjusted hospital-specific base-year capital cost per discharge attributed to Iowa Medicaid patients.

Allowable capital costs are determined by multiplying the capital amount from the base-year cost report by 80 percent. Cost report data for hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report is not used in calculating the statewide average case-mix-adjusted capital cost per discharge.

The 50/50 blend is calculated by adding the case-mix-adjusted hospital-specific per discharge capital cost to the statewide average case-mix-adjusted per discharge capital costs and dividing by two. Hospitals whose blended capital add-on exceeds one standard deviation off the mean Medicaid blended capital rate will be subject to a reduction in their capital add-on to equal the first standard deviation.

For purposes of calculating the disproportionate share rate only, a separate add-on to the base amount for capital costs shall be calculated for any hospital that qualifies for a disproportionate share payment only as a children's hospital based on a distinct area or areas serving children, using the case-mix-adjusted hospital-specific base-year capital cost per discharge attributed to Iowa Medicaid patients in the distinct area or areas in the hospital where services are provided predominantly to children under 18 years of age.

(2) *One payment for high-cost adjustments is added on to the blended base amount.*

High-cost adjustments are included in the rate table listing and added to the blended base amount before the final payment rate schedule is set. This add-on reflects an adjustment for the high cost incurred for providing services to medical assistance patients. Hospitals that are Iowa state-owned and have more than 500 beds shall qualify to receive the high-cost adjustment add-on. The amount of the high-cost adjustment add-on shall be determined annually, before the beginning of each fiscal year. Paid claims with service dates from July 1 through December 31 of the most recent calendar year shall be used as the basis for determining the add-on amount. This add-on payment shall be established at the level intended to increase total payments to qualifying hospitals for inpatient care up to the lesser of the Medicare upper payment limit or the hospital-specific limit, in accordance with 42 CFR 447.272, as amended to January 1, 2003, and 42 U.S.C. 1396r-4(g) (Supp. 2002).

ITEM 5. Amend subparagraph **79.1(5)“f”(3)** as follows:

(3) Cost outliers. Cases qualify as cost outliers when costs of service in a given case, not including any add-on amounts for *high-cost adjustments*, direct or indirect medical education or for disproportionate share costs, exceed the cost threshold. This cost threshold is determined to be the greater of two times the statewide average DRG payment for that case or the hospital's individual DRG payment, *reduced by the high-cost adjustment*, for that case plus \$16,000. Costs are calculated using hospital-specific cost-to-charge ratios determined in the base-year cost reports. Additional payment for cost outliers is 80 percent of the excess between the hospital's cost for the discharge and the cost threshold established to define cost outliers. Payment of cost outlier

amounts shall be paid at 100 percent of the calculated amount and made at the time the claim is paid.

Those hospitals that are notified of any outlier review initiated by the PRO must submit all requested supporting data to the PRO within 60 days of the receipt of outlier review notification, or outlier payment will be forfeited and recouped. In addition, any hospital may request a review for outlier payment by submitting documentation to the PRO within 365 days of receipt of the outlier payment. If requests are not filed within 365 days, the provider loses the right to appeal or contest that payment.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3460B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 110, "Child Development Homes," Iowa Administrative Code.

This amendment changes the registration requirements for child development homes in Category C. Category C homes may care for 12 to 16 children. A second qualified provider must be present whenever 8 or more children are present in the home. Current rules require both providers to meet Category C qualifications.

Category C providers must be older (at least 21 years of age instead of 20) and have three more years of child care experience than Category B providers (four years, or five years if the provider does not have relevant postsecondary education). This amendment allows the second provider in a Category C home to meet Category B qualifications.

This amendment does not provide for waivers in specified situations because this change is a benefit to providers.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on April 28, 2004, as **ARC 3329B**. On the same date, legislation was enacted requiring the Department to make this change. The Department received comments for and against this amendment. This amendment is identical to the Notice of Intended Action.

The Council on Human Services adopted this amendment on June 9, 2004.

The Department finds that this amendment removes a restriction on child development home providers. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date is waived.

This amendment is intended to implement Iowa Code section 237A.3A and 2004 Iowa Acts, House File 2390, section 28.

This amendment became effective on July 1, 2004.

The following amendment is adopted.

Amend subrule 110.10(2) as follows:

110.10(2) Provider qualifications.

a. *One provider who meets the following qualifications must always be present:*

(1) The provider shall be at least 21 years old.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. (2) The provider shall have a high school diploma or GED.

e. (3) The provider shall either:

(1) 1. Have five years of experience as a registered or nonregistered child care provider, or

(2) 2. Have a child development associate credential or any two-year or four-year degree in a child care-related field and four years of experience as a registered or nonregistered child care home provider.

b. *The coprovider shall meet the requirements of subrule 110.9(2).*

[Filed Emergency After Notice 6/14/04, effective 7/1/04]

[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3459B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2004 Iowa Acts, Senate File 2298, section 138, subsection 13, the Department of Human Services amends Chapter 150, "Purchase of Service," and Chapter 185, "Rehabilitative Treatment Services," Iowa Administrative Code.

These amendments:

- Continue rate limits in effect for Iowa purchase of social service contracts through state fiscal year 2005. These limits affect providers of adoption, shelter care, family planning, and supervised apartment living services. Reimbursement remains frozen at the levels in effect for state fiscal year 2001.

- Continue rate limits in effect for rehabilitative treatment and supportive service contracts through state fiscal year 2005. These limits affect providers of family preservation, family-centered, foster group care, and foster family care services. Reimbursement remains frozen at the levels in effect for state fiscal year 2001. Provisions for renegotiating rates continue to be suspended.

These amendments do not provide for waivers in specified situations because these policies are mandated by 2004 Iowa Acts, Senate File 2298 and House File 2577. The Department has no authority to waive provisions of law.

The Council on Human Services adopted these amendments on June 9, 2004.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2004 Iowa Acts, Senate File 2298, section 138, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived as authorized by 2004 Iowa Acts, Senate File 2298, section 138, subsection 13.

These amendments are also published herein under Notice of Intended Action as **ARC 3467B** to allow for public comment.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 138, subsections 6, 8, and 9.

These amendments became effective July 1, 2004.

The following amendments are adopted.

ITEM 1. Amend subparagraph **150.3(5)"p"(2)**, introductory paragraph and numbered paragraphs **"3"** and **"4,"** as follows:

(2) For the fiscal year beginning July 1, 2003 2004, the maximum reimbursement rates for services provided under a purchase of social service agency contract (adoption, shelter care, family planning, and supervised apartment living) shall be the same as the rates in effect on June 30, 2003 2004, except under any of the following circumstances:

3. For the fiscal year beginning July 1, 2003 2004, the combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be \$83.69 per day. If the department reimburses the provider at less than the maximum rate, but the provider's cost report justifies a rate of at least \$83.69, the department shall readjust the provider's reimbursement rate to the actual and allowable cost plus the inflation factor or \$83.69, whichever is less.

4. For the fiscal year beginning July 1, 2003 2004, the purchase of service reimbursement rate for a shelter care provider's actual and allowable cost plus inflation shall *continue to be* increased by \$3.99. For state fiscal year 2004 2005, beginning July 1, 2003 2004, the established statewide average actual and allowable cost shall *continue to be* increased by \$3.99.

ITEM 2. Amend paragraph **185.112(1)"k"** as follows:

k. Once a negotiated rate is established based on the provisions of this subrule, it shall not be changed or renegotiated during the ~~time~~ period of this rule except in the following circumstances:

(1) By mutual consent of the provider and the service area manager of the host area based upon the factors delineated at paragraph 185.112(1)"f," except that rates shall not be changed or renegotiated for the period of July 1, 2000, through June 30, 2004 2005.

(2) In accordance with paragraph 185.112(6)"b," except that rates shall not be changed or renegotiated for services not assumed by a new provider for the period of July 1, 2000, through June 30, 2004 2005.

(3) Rates may be changed when funds are appropriated for an across-the-board increase.

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[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3458B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 153, "Social Services Block Grant and Funding for Local Services," Iowa Administrative Code.

These amendments change the eligibility and payment provisions under Division IV of the chapter, "State Payment Program for Services to Adults with Mental Illness, Mental Retardation, and Developmental Disabilities." These

HUMAN SERVICES DEPARTMENT[441](cont'd)

amendments are necessary to contain State Payment Program expenses within the appropriated funds. The amendments:

- Limit eligibility for new applications to the State Payment Program after July 1, 2004, to persons whose income is at or below 150 percent of the federal poverty level and whose countable resources are within the limits applied by the federal Supplemental Security Income program (\$2000 for an individual). People who have applied for State Payment Program benefits before July 1, 2004, will not have to meet these requirements.

- Freeze all provider reimbursement rates to the level in effect on June 30, 2004. Providers under the program normally negotiate annual rate increases in May and June to be effective July 1. Historically, rates have increased 6 percent per year. Since the program appropriation for state fiscal year 2005 is the same as the appropriation for state fiscal year 2004, no funds are available for a rate increase.

These amendments do not provide for waivers in specified situations because necessary savings will not be achieved if waivers are granted. Consumers or providers may request a waiver of these rules under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on June 9, 2004.

The Department finds that notice and public participation are impracticable and contrary to the public interest, in that the Department is statutorily and constitutionally required to reduce spending obligations to the level of authorized appropriations. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(3), that delaying the effective date of these amendments would constitute a peril to public welfare, in that if the program were to go into deficit, all payments would cease and clients would not receive needed services. Therefore, the Department finds that the normal effective date of these amendments should be waived.

These amendments are also published herein under Notice of Intended Action as **ARC 3451B** to allow for public comment.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 131.

These amendments became effective July 1, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 153.52(1) as follows:

153.52(1) Eligibility criteria. Meet the eligibility criteria established in the approved county management plan for the county where the applicant resides, *except that no person applying for services on or after July 1, 2004, shall be approved whose:*

a. Income exceeds 150 percent of the federal poverty level; or

b. Countable resources exceed the maximum allowed under the federal Supplemental Security Income program. The following resources shall be exempted:

(1) One primary vehicle.

(2) One primary residence.

(3) Burial accounts or agreements.

(4) Retirement accounts in the accumulation stage.

(5) Medical savings accounts.

(6) Assistive technology accounts for persons whose disability requires or may reasonably be expected to require assistive technology.

ITEM 2. Amend subrule 153.53(2), introductory paragraph, as follows:

153.53(2) Eligibility for services. An applicant shall be determined eligible based on the eligibility guidelines contained in the approved county management plan for the county where the applicant resides. *When an application is filed on or after July 1, 2004, the applicant shall also meet the requirements of subrule 153.52(1).* The department's service worker is responsible for the decision made on eligibility based on the approved county management plan.

ITEM 3. Amend paragraph **153.57(3)"b"** as follows:

b. Payment to a provider with a special mental health, mental retardation county contract agreement for services provided to a member shall be the unit rate paid ~~on November 1, 2001~~ by the county in which the provider is located ~~for the remainder of state fiscal year 2003, and the unit rate paid by the county in which the provider is located effective July 1, 2003, except that all rates shall be frozen June 30, 2004.~~

(1) Payment to a provider for services to a member whose case is being overseen by the department's service worker and the Iowa Plan shall be at the rate established by the Iowa Plan contractor ~~as of November 1, 2001, for the remainder of state fiscal year 2003, and at the rate established by the Iowa Plan contractor effective July 1, 2003, except that all rates shall be frozen June 30, 2004.~~

(2) Payment to a new provider requesting enrollment in a special mental health, mental retardation county contract agreement ~~between January 1, 2003, and June 30, 2003, shall be at the rate paid on November 1, 2001, in state fiscal year 2004 by the county in which the provider is located.~~

[Filed Emergency 6/14/04, effective 7/1/04]

[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3457B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 234.6 and 600.22, the Department of Human Services amends Chapter 201, "Subsidized Adoptions," Iowa Administrative Code.

In accordance with 2004 Iowa Acts, Senate File 2298, section 139, these amendments:

- Limit payment for nonrecurring expenses of foreign adoptions and for attorney fees to finalize an adoption to \$500 per child.

- Eliminate subsidy payments for child care except for families that have entered into an agreement including a child care payment before June 30, 2004. Payments for child care under these agreements shall be made in accordance with policies of the Department's Child Care Assistance Program. Child care services are available through the Child Care Assistance Program to families that meet the program's eligibility guidelines.

Exceptions to the policy on maximum payments for child care are authorized by 2004 Iowa Acts, Senate File 2298, section 139. These amendments do not otherwise provide for waivers in specified situations because the Department does not have the authority to waive provisions set in statute.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted these amendments on June 9, 2004.

The Department finds that notice and public participation are unnecessary because these amendments merely bring the rules into conformity with policies set by 2004 Iowa Acts, Senate File 2298, section 139, and the Department has no discretion over them. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that these amendments confer a benefit on the public by ensuring that Department rules accurately reflect the statutory mandate in 2004 Iowa Acts, Senate File 2298, section 139, which became effective on April 20, 2004, and therefore the normal effective date of these amendments should be waived.

These amendments are intended to implement 2004 Iowa Acts, Senate File 2298, section 139.

These amendments are also published herein under Notice of Intended Action as **ARC 3450B** to allow for public comment.

These amendments became effective July 1, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 201.3(2), introductory paragraph, as follows:

201.3(2) A child who enters the United States from another country on the basis of a visa classifying the child as an orphan, in accordance with the Immigration and Naturalization Act, for the purpose of adoption by a specific United States family is not eligible for subsidized adoption maintenance payments, medical assistance, or special services except for nonrecurring expenses. A child entering the country for adoption may be eligible for subsidy for nonrecurring expenses, not to exceed ~~\$2000~~ \$500, in the following situations:

ITEM 2. Amend paragraph **201.6(1)“a”** as follows:

Rescind subparagraph (4) and adopt the following new subparagraph in lieu thereof:

(4) Child care, if the family has entered into a presubsidy or subsidy agreement on or before June 30, 2004, that contains a provision for child care reimbursement. Child care subsidy payments shall not exceed the maximum rates established in 441—paragraph 170.4(7)“a” for the child’s age and type of care, unless the department grants a waiver under rule 441—1.8(17A,217). Child care services are available through the child care assistance program to families that meet the requirements of 441—Chapter 170.

Amend subparagraph (7) as follows:

(7) Attorney fees and court costs necessary to finalize the adoption, limited to \$700 \$500 per child. ~~When two or more children are adopted together, the maximum reimbursement rate shall be \$700 for the first child and \$500 for each additional child.~~ Attorney fees may be paid when the adoptive family has negotiated an Agreement to Future Adoption Subsidy, Form 470-0762.

[Filed Emergency 6/14/04, effective 7/1/04]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3479B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 100B.10, the Department of Public Safety hereby amends Chapter 59, “Volunteer Emergency Services Provider Death Benefits,” Iowa Administrative Code.

The Volunteer Emergency Services Provider Death Benefit Program, established by Iowa Code section 100B.11 and 661—Chapter 59, provides a death benefit to the beneficiary or beneficiaries of a volunteer emergency services provider (volunteer fire fighter, reserve peace officer, or volunteer emergency medical provider) who suffers a line-of-duty death. 2004 Iowa Acts, Senate File 2044, enacted during the 2004 Session of the Iowa General Assembly, amended the eligibility provisions of the Volunteer Emergency Services Provider Death Benefit Program by changing the definition of a line-of-duty death. Since the inception of the program in 2000, a death, even if it occurred while the provider was on duty, was not considered a line-of-duty death eligible for the death benefit if it resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including a heart attack. This provision mirrored eligibility then in effect in the federal Public Safety Officers Death Benefit Program, which provides line-of-duty death benefits to peace officers and fire fighters. In late 2003, a change was enacted to the federal program which provided that, with some limitations, deaths from heart attacks or strokes which occur while the service provider is on duty or within 24 hours of being on duty are line-of-duty deaths if the provider was engaged in “nonroutine stressful or strenuous physical activity within the scope of the provider’s duties.” The changes enacted to the state program in 2004 Iowa Acts, Senate File 2044, and implemented in these amendments mirror the recent change in the federal program.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments is impracticable, as it is desirable that changes in the eligibility requirements for the Volunteer Emergency Services Provider Death Benefit Program be implemented on the effective date of the parallel statutory changes, July 1, 2004.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2004, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by implementing changes in the eligibility requirements for the Volunteer Emergency Services Provider Death Benefit Program on the effective date of the statute enabling these changes, which will reduce any potential confusion regarding the benefits in effect at a given time.

Notice of Intended Action for these amendments is published herein as **ARC 3480B**. The Notice of Intended Action will provide for an opportunity for public comment on the changes in the rules, including a public hearing.

These amendments are intended to implement Iowa Code section 100B.11 as amended by 2004 Iowa Acts, Senate File 2044.

These amendments became effective on July 1, 2004.

The following amendments are adopted.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 1. Amend rule **661—59.1(100B)**, first unnumbered paragraph, as follows:

Information about the program may be obtained by mail from the Volunteer Emergency Services Provider Death Benefit Program, Fire Marshal Division, Department of Public Safety, ~~624 East 2nd Street~~ 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309-1834, by telephone at (515)281-5821, or by electronic mail at fminfo@dps.state.ia.us.

ITEM 2. Amend rule 661—59.2(100B) as follows:

Amend subrule 59.2(1) as follows:

59.2(1) Application. Application forms for the volunteer emergency services provider death benefit program may be obtained on request from the fire marshal division. The fire marshal may accept a legible copy of a completed application for the federal public safety officer benefits program as an application for payment of benefits from the volunteer emergency services provider death benefit program. Completed application forms shall be mailed or delivered to the Volunteer Emergency Services Provider Death Benefit Program, Fire Marshal Division, Department of Public Safety, ~~624 East 2nd Street~~ 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309-1834. A completed application form shall be accompanied by a letter from the chief or other responsible supervisory official of the department in which the volunteer emergency services provider was serving at the time of the line-of-duty death, certifying that the death of the volunteer was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer. Any evidence or proof available to the chief or responsible supervisory official to support the claim shall accompany the letter.

Amend subrule **59.2(2)**, definition of “line-of-duty death,” as follows:

“Line-of-duty death” means the death of a volunteer emergency services provider which was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer. The death is not a line-of-duty death if any of the following apply:

1. The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the volunteer emergency services provider’s death.

However, if the death was the direct and proximate result of a heart attack or stroke, the volunteer emergency services provider shall be presumed to have died as a result of a traumatic personal injury if the provider engaged in a non-routine stressful or strenuous physical activity within the scope of the provider’s duties and the death resulted while engaging in that activity, while still on duty after engaging in that activity, or not later than 24 hours after engaging in that activity, and the presumption is not overcome by competent medical evidence to the contrary. For purposes of this paragraph, “nonroutine stressful or strenuous physical activity” includes, but is not limited to, nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, emergency response, and training exercise activities. “Nonroutine stressful or strenuous physical activity” does not include activities of a clerical, administrative, or nonmanual nature.

2. The death was caused by the intentional misconduct of the volunteer emergency services provider or by such provider’s intent to cause the provider’s own death.

3. The volunteer emergency services provider was voluntarily intoxicated at the time of death.

4. The volunteer emergency services provider was performing the provider’s duties in a grossly negligent manner at the time of death.

5. A beneficiary who would otherwise be entitled to a benefit under this chapter was, through the beneficiary’s actions, a substantial contributing factor to the volunteer emergency services provider’s death.

ITEM 3. Amend **661—Chapter 59**, implementation clause, as follows:

These rules are intended to implement Iowa Code section 100B.11 *as amended by 2004 Iowa Acts, Senate File 2044*.

[Filed Emergency 6/17/04, effective 7/1/04]

[Published 7/7/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3447B

WORKERS’ COMPENSATION DIVISION[876]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 86.8, the Workers’ Compensation Commissioner hereby amends Chapter 8, “Substantive and Interpretive Rules,” Iowa Administrative Code.

This amendment provides reference to the current tables which determine payroll taxes.

In compliance with Iowa Code section 17A.4(2), the Workers’ Compensation Commissioner finds that notice and public participation are unnecessary. Rule 876—8.8(85, 17A) is noncontroversial and, further, Iowa Code section 85.61(6) requires adoption of current tables to determine payroll taxes by July 1 of each year. The Division must wait until the Internal Revenue Service and Iowa Department of Revenue determine whether there will be changes in their publications on July 1 of the current year.

The Division also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2004, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Division’s legislative mandate.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000 or combined expenditures exceeding \$500,000 within five years by all affected persons, including the agency. Therefore, no fiscal impact statement accompanies this rule making.

The Division has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.31.

The Division has determined that the amendment will not necessitate additional annual expenditures exceeding \$100,000, or \$500,000 within five years, by political subdivisions or agencies which contract with political subdivisions. Therefore, no fiscal impact statement accompanies this rule making.

The amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers’ Compensation Division rules.

WORKERS' COMPENSATION DIVISION[876](cont'd)

This amendment is intended to implement Iowa Code section 85.61(6).

This amendment became effective on July 1, 2004.

The following amendment is adopted.

Amend rule 876—8.8(85,17A) as follows:

876—8.8(85,17A) Payroll tax tables. Tables for determining payroll taxes to be used for the period July 1, 2003 2004, through June 30, 2004 2005, are the tables in effect on July 1, 2003 2004, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Internal Revenue Service, ~~New Withholding Tables, Publication 15T Circular E, Employer's Tax Guide, Publication 15~~ [Rev. June 2003 January 2004].)

2. Iowa income tax withholding computer formula for weekly payroll period. (Iowa Department of Revenue and

Finance Iowa Withholding Tax Guide, Publication 44-001 [Rev. January 1998], for all wages paid on or after January 1, 1998.)

3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, ~~New Withholding Tables, Publication 15T Circular E, Employer's Tax Guide, Publication 15~~ [Rev. January 2003 2004].)

This rule is intended to implement Iowa Code section 85.61(6).

[Filed Emergency 6/11/04, effective 7/1/04]

[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3473B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts amendments to Chapter 17, "Open Enrollment," Iowa Administrative Code.

With the exception of Item 13, these amendments incorporate policies and procedures from the Department's guidelines and decisions and implement 2003 Iowa Acts, chapter 180, section 35. Item 13 rescinds a subrule for which there is no statutory authority.

A public hearing was held on June 1, 2004. No oral comments were received. One written comment was received from an attorney who assists school districts in the development of their desegregation plans. The following changes based on the attorney's and staff comments were made to the amendments which were published under Notice of Intended Action in the May 12, 2004, Iowa Administrative Bulletin as **ARC 3331B**:

The definition of "sibling" in rule 281—17.2(282) has been amended to read as follows:

"Sibling" means a child residing primarily in the same household as the child for whom an open enrollment request is filed and who is related by adoption, blood or marriage to the child for whom an open enrollment request is filed. 'Sibling' also includes a foster child who is placed in the same household as the child for whom an open enrollment request is filed."

The introductory paragraph of paragraph 17.14(2)"b" has been amended to read as follows:

"b. Implementation. The open enrollment component of the plan adopted by the district board shall only be implemented by the district if other components of the desegregation plan describe the steps the district is taking internally to avoid or reduce racial isolation, and the district demonstrates the extent to which it has implemented those steps. For districts with multiple attendance centers at the same grade level, such steps may include intradistrict student transfer policies, pairing of attendance centers, revision of boundaries of attendance centers, realignment of feeder systems, magnet schools, and the placement of specialized programs and services. In a district without multiple attendance centers at the same grade level, such steps may include pupil assignments to classrooms, classroom pairing, community and family outreach programs, student-to-student mentoring or grouping designed to promote understanding and acceptance of and positive interactions with all racial and ethnic groups, and professional development activities designed to promote understanding and acceptance of and positive interactions with all racial and ethnic groups."

Paragraph 17.14(3)"c" has been amended to read as follows:

"c. A district with multiple attendance centers at the same grade level shall specify in the open enrollment component of its desegregation plan which attendance centers are affected by the open enrollment component. For each of those attendance centers, the district shall establish and specify the individual attendance center ratios of minority-to-nonminority students, consistent with subrule 17.14(2). The plan may provide for an initial determination of whether a requested open enrollment will negatively affect the specific attendance center ratio. With respect to a request to open enroll out of the district, if such enrollment will negatively af-

fect the ratio established for the student's current attendance center, the request may be denied by the district with no further determination of the impact of the request on the districtwide ratio. For a request to open enroll either into or out of the district, if the open enrollment will not negatively affect the attendance center ratio, the request shall be denied only if there would be a negative impact on the districtwide ratio. As of July 1, 2003, if a district's plan sets a threshold lower than allowed in paragraph 17.14(2)"a" and that plan has not been disapproved by a court of competent jurisdiction, the district may implement its individual attendance center ratios in addition to its districtwide ratio."

These amendments are intended to implement 2003 Iowa Acts, chapter 180, section 35 [Iowa Code Supplement section 282.18(3)].

These amendments will become effective August 11, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [17.2, 17.3(2), 17.3(3), 17.6(2), 17.6(3), 17.8(1), 17.8(2), 17.8(4), 17.8(7), 17.10(7), 17.10(8), 17.14] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3331B**, IAB 5/12/04.

[Filed 6/17/04, effective 8/11/04]

[Published 7/7/04]

[For replacement pages for IAC, see IAC Supplement 7/7/04.]

ARC 3474B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 33, "Educating the Homeless," Iowa Administrative Code.

These amendments implement the provisions of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sections 11431, et seq., which is part of the federal No Child Left Behind Act.

Notice of Intended Action was published on May 12, 2004, in the Iowa Administrative Bulletin as **ARC 3330B**. A public hearing was held on June 1, 2004. One written comment was received and no oral comments were received. The following changes are being made to the amendments published under Notice:

- In rule 33.2(256), the words "on or" were omitted from the definition of "preschool child." The definition now reads as follows:

"Preschool child" is defined as a child who is three, four, or five years of age before September 15."

- The words "unless the parents agree otherwise" were added to the last sentence in subrule 33.3(6), and the subrule now reads as follows:

"33.3(6) The board shall determine school placement based on the best interests of a homeless child or youth. The board shall, to the extent feasible, keep a homeless child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian. If the child or youth becomes permanently housed dur-

EDUCATION DEPARTMENT[281](cont'd)

ing an academic year, enrollment shall continue in the school of origin for the remainder of that academic year unless the parents agree otherwise."

- The following phrase was omitted from paragraph 33.3(7)"g": "on a comparable basis that transportation is available to other students." The paragraph now reads as follows:

"g. Ensure that the parent or guardian of a homeless child or youth, or the unaccompanied youth, is fully informed of all transportation services and is assisted in accessing transportation to the school of enrollment;"

- In subrule 33.9(6), the word "district" was replaced with "school" and the subrule was clarified. It now reads as follows:

"**33.9(6)** While dispute resolution is pending, the child or youth shall be enrolled immediately in the school of choice of the child's parent or guardian or the school of choice of the unaccompanied youth. The school of choice must be an attendance center either within the district of residence or the district of origin of the child or youth."

These amendments are intended to implement the provisions of the Stewart B. McKinney Homeless Assistance Act, as reauthorized in January 2002 as the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sections 11431, et seq.

These amendments will become effective August 11, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [33.1 to 33.3, 33.5, 33.6, 33.8 to 33.11, Ch 33 impl. clause] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3330B**, IAB 5/12/04.

[Filed 6/17/04, effective 8/11/04]
[Published 7/7/04]

[For replacement pages for IAC, see IAC Supplement 7/7/04.]

ARC 3491B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 462A.3, the Natural Resource Commission hereby amends Chapter 45, "Boat Motor Regulations," Iowa Administrative Code.

This amendment adds Banner Lakes at Summerset State Park in Warren County to the list of artificial lakes under 100 acres in size with unlimited boat motor size and no-wake speed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 7, 2004, as **ARC 3093B**. No comments were received during the comment period or at the public hearing held January 27, 2004. There is one change from the Notice of Intended Action. The name of the park was changed from "Middle River State Park" to "Banner Lakes at Summerset State Park."

This amendment is intended to implement Iowa Code section 462A.31.

This amendment will become effective August 11, 2004. The following amendment is adopted.

Amend subrule **45.4(2)** by adopting the following new paragraph in alphabetical order:

Banner Lakes at Summerset State Park, Warren County—motor boats of outboard or inboard/outdrive type and unrestricted horsepower at a no-wake speed.

[Filed 6/18/04, effective 8/11/04]
[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3492B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

These rules give the regulations for hunting deer and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking, and transportation tag requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3203B**. A public hearing on the proposed amendments was held March 31, 2004.

The following changes were made from the Notice of Intended Action.

1. The special late season was extended to include two weekends to allow hunters to take advantage of the increase in antlerless deer licenses.

2. Beginning October 1, a hunter will be able to purchase an unlimited number of antlerless-only licenses until county quotas fill.

3. Antlerless-only license quotas were changed in most counties to allow hunters to take more female deer to achieve the department's goal of reducing the deer herd in selected areas.

4. Subrules 106.2(4) and 106.7(4) were amended to define more accurately when a handgun may be carried for deer hunting.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These amendments shall become effective August 11, 2004.

The following amendments are adopted.

ITEM 1. Amend subrule 106.2(4) as follows:

106.2(4) Special late season. Antlerless deer may be taken by shotgun, muzzleloading rifle, *muzzleloading pistol*, handgun or bow as permitted in 571—106.7(481A) from January 11 through January 19 23. All participants must meet the hunters' orange apparel requirement in Iowa Code section 481A.122. All other regulations for taking deer with a firearm shall apply.

ITEM 2. Amend subrules 106.6(1) to 106.6(3) as follows:

106.6(1) Bow season. An unlimited number of statewide bow licenses may be issued. *A Prior to October 1*, a person who purchases a bow license may purchase the following additional licenses: one statewide gun license; up to three

NATURAL RESOURCE COMMISSION[571](cont'd)

antlerless-only licenses for the bow, second regular gun or late muzzleloader season; and up to three antlerless-only licenses for the special late season. *Beginning October 1, a person may purchase an unlimited number of antlerless-only licenses for the bow, second regular gun, late muzzleloader and special late seasons until quotas fill.*

106.6(2) Regular gun seasons. An unlimited number of statewide licenses will be available for both the first and second regular gun seasons.

a. *A Prior to October 1, a person obtaining a paid license for the first regular gun season shall be eligible to purchase the following additional licenses: a statewide bow license; one antlerless-only license for the first regular gun season; up to three antlerless-only licenses for the bow and late muzzleloader seasons; and up to three antlerless-only licenses for the special late season. Beginning October 1, a person may purchase an unlimited number of antlerless-only licenses for the bow, first regular gun, late muzzleloader and special late seasons until quotas fill.* No person obtaining a paid license for the first regular gun season shall be eligible to obtain a paid license for the second regular gun season.

b. *A Prior to October 1, a person obtaining a paid license for the second regular gun season shall be eligible to purchase the following additional licenses: a statewide bow license; up to three antlerless-only licenses for the bow, second regular gun or late muzzleloader season; and up to three antlerless-only licenses for the special late season. Beginning October 1, a person may purchase an unlimited number of antlerless-only licenses for the bow, second regular gun, late muzzleloader and special late seasons until quotas fill.* No person obtaining a paid license for the second regular

gun season shall be eligible to obtain a paid license for the first regular gun season.

106.6(3) Muzzleloader seasons.

a. Early muzzleloader season. No more than 7,500 paid statewide licenses will be sold. Fifty additional licenses will be issued through and will be valid only for the Iowa Army Ammunition Plant. No one may purchase more than one paid any deer license for the early muzzleloader season. A hunter obtaining a paid any deer license for the early muzzleloader season shall not be eligible to purchase any other statewide any deer gun season license or antlerless-only licenses for the *first or second regular* gun or late muzzleloader season. *A Prior to October 1, a hunter may purchase the following additional licenses: a statewide bow license; up to three antlerless-only bow licenses; one antlerless-only license for the early muzzleloader season and up to three antlerless-only licenses for the special late season. Beginning October 1, a person may purchase an unlimited number of antlerless-only licenses for the bow, early muzzleloader and special late seasons until quotas fill.*

b. Late muzzleloader season. An unlimited number of statewide licenses may be issued for the late muzzleloader season. *A Prior to October 1, a person obtaining a paid late muzzleloader season license may purchase the following additional licenses: a statewide bow license; up to three antlerless-only licenses for the bow, second regular gun or late muzzleloader season; and up to three antlerless-only licenses for the special late season. Beginning October 1, a person may purchase an unlimited number of antlerless-only licenses for the bow, second regular gun, late muzzleloader and special late seasons until quotas fill.*

ITEM 3. Amend subrule 106.6(5) as follows.

106.6(5) Antlerless-only licenses. Paid antlerless-only licenses will be available to eligible persons by county as follows:

Adair	800 1250	Floyd	450 500	Monona	350 650
Adams	800 1300	Franklin	300 350	Monroe	850 1000
Allamakee	1400 2500	Fremont	500 750	Montgomery	400 750
Appanoose	1000 1600	Greene	200	Muscatine	800 1400
Audubon	200 350	Grundy	100	O'Brien	100
Benton	600 1000	Guthrie	800 2000	Osceola	100
Black Hawk	400 150	Hamilton	150	Page	500 1000
Boone	450	Hancock	100	Palo Alto	100
Bremer	400 400	Hardin	500	Plymouth	400 150
Buchanan	400 400	Harrison	400 700	Pocahontas	100
Buena Vista	100	Henry	800 1400	Polk	350 400
Butler	600 700	Howard	550 1000	Pottawattamie	650 1000
Calhoun	100	Humboldt	100	Poweshiek	400 500
Carroll	150	Ida	100	Ringgold	1200 1800
Cass	250 500	Iowa	800 1200	Sac	100
Cedar	600 1000	Jackson	1000 1500	Scott	650 1000
Cerro Gordo	150	Jasper	450 500	Shelby	450 200
Cherokee	100	Jefferson	750 1500	Sioux	400 150
Chickasaw	550 1000	Johnson	1100 1900	Story	250
Clarke	500 1000	Jones	850 1400	Tama	700 800
Clay	100	Keokuk	750 1400	Taylor	1200 1750
Clayton	2000 3000	Kossuth	300	Union	800 1200
Clinton	650 1000	Lee	1200 2000	Van Buren	1900 3000

NATURAL RESOURCE COMMISSION[571](cont'd)

Crawford	150	Linn	950 1700	Wapello	750 1250
Dallas	500 1000	Louisa	800 1400	Warren	500 600
Davis	1650 2500	Lucas	450 550	Washington	1100 1800
Decatur	1200 2000	Lyon	100	Wayne	1000 1400
Delaware	800 1100	Madison	650 1200	Webster	200
Des Moines	750 1500	Mahaska	600 900	Winnebago	100
Dickinson	100	Marion	650 750	Winneshiek	900 2000
Dubuque	1050 1750	Marshall	350 400	Woodbury	450 750
Emmet	100	Mills	400 750	Worth	250
Fayette	1050 1750	Mitchell	350 400	Wright	100

ITEM 4. Amend subrule 106.7(4) as follows.

106.7(4) Prohibited weapons and devices. The use of dogs, domestic animals, bait, rifles other than muzzleloaded, handguns except as provided in 106.7(2) and 106.7(3), crossbows except as otherwise provided, automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Bait" means grain, fruit, vegetables, nuts, hay, salt, mineral blocks, or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle other than a muzzleloading rifle that meets the requirements of 106.7(3) ~~or to carry or have in possession a handgun during the bow and early muzzleloader seasons.~~ *It shall be unlawful for a person hunting with a bow license to carry a handgun unless that person also has a valid deer hunting license and an unfilled transportation tag that permits a handgun to be used to take deer.*

ITEM 5. Amend subrule 106.8(1) as follows:

106.8(1) Licenses with quotas. All paid deer hunting licenses for which a quota is established may be obtained from ELSI agents on a first-come, first-served basis beginning August 15 until the quota fills, or through the last day of the hunting period for which the license is valid. After ~~December 14~~ *October 1*, persons may purchase any available antlerless-only licenses for the special late season and special area hunts on a first-come, first-served basis until the county quotas or special area hunt quotas for antlerless-only licenses fill, or until the last day of the season, whichever occurs first. A person may purchase as many antlerless-only licenses as are available, regardless of other licenses that the individual may have purchased.

[Filed 6/18/04, effective 8/11/04]
[Published 7/7/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/7/04.

ARC 3490B

NATURAL RESOURCES
DEPARTMENT[561]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.9, 456A.17 and 456A.24(5), the Iowa Department of Natural Resources hereby adopts new Chapter 11, "The Iowa Nature Store," Iowa Administrative Code.

The new chapter is intended to establish a program through which the Department will acquire and sell merchandise designed to promote the mission of the Department to the public. This program may be accomplished through the awarding of a contract to a private business to establish and manage the sale and acquisition of merchandise, subject to the approval of the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 12, 2004, as **ARC 3357B**. No comments were received during the public comment period or at the public hearing held on June 3, 2004. These rules are identical to those published under Notice.

These rules are intended to implement Iowa Code sections 455A.9 and 456A.24.

These rules will become effective August 11, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 11] is being omitted. These rules are identical to those published under Notice as **ARC 3357B**, IAB 5/12/04.

[Filed 6/18/04, effective 8/11/04]
[Published 7/7/04]

[For replacement pages for IAC, see IAC Supplement 7/7/04.]

ARC 3478B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetic Examiners hereby amends Chapter 81, "Licensure of Dietitians," and Chapter 84, "Fees," Iowa Administrative Code.

These amendments adopt new rules for licensure renewal, application requirements, and criteria and fees for obtaining a duplicate or reissued license and wallet card. Licensees who regularly examine, attend, counsel or treat adults or children in Iowa will be required to document at the time of renewal that they have completed the mandatory training on abuse identification and reporting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3234B**. A public hearing was held on April 20, 2004, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received at the hearing and these amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Board of Dietetic Examiners on June 4, 2004.

These amendments will become effective August 11, 2004.

These amendments are intended to implement Iowa Code chapters 21, 147, 152A and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [81.4(4)"b" and "c," 81.4(6), 81.4(7), 81.9, 81.11 to 81.14, 84.1(5) to 84.1(9)] is being omitted. These amendments are identical to those published under Notice as **ARC 3234B**, IAB 3/31/04.

[Filed 6/17/04, effective 8/11/04]
[Published 7/7/04]

[For replacement pages for IAC, see IAC Supplement 7/7/04.]

ARC 3477B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Athletic Training Examiners amends Chapter 351, "Licensure of Athletic Trainers," and Chapter 354, "Fees," Iowa Administrative Code.

These amendments adopt new rules for licensure renewal and criteria and fees for obtaining a duplicate or reissued license and wallet card. Licensees who examine, attend, counsel or treat adults or children in Iowa will be required to document at the time of renewal that they have completed the mandatory training on abuse identification and reporting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 14, 2004, as **ARC 3275B**. A public hearing was held on May 4, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received and these amendments are identical to those published under Notice of Intended Action.

These amendments will become effective August 11, 2004.

These amendments are intended to implement Iowa Code chapters 21, 147, 152D and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [351.9, 351.11 to 351.14, 354.1(5), 354.1(7) to 354.1(9)] is being omitted. These amendments are identical to those published under Notice as **ARC 3275B**, IAB 4/14/04.

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